SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, [redacted] 1978

No. [redacted] 78

THE GEORGETOWN NATIONAL BANK, PLAINTIFF IN ERROR,

v.

[redacted] MORELAND, SHERIFF OF SCOTT COUNTY, [redacted] THE SPECIAL COURT OF SCOTT [redacted] COUNTY, ETC., ET AL.

TO THE COURT OF APPEALS OF THE STATE OF KENTUCKY

FILED APRIL 12, 1979

[redacted]

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM. 1925

No. 377

THE GEORGETOWN NATIONAL BANK, PLAINTIFF IN ERROR,

vs.

OLLIE McFARLAND, SHERIFF OF SCOTT COUNTY, KENTUCKY; THE FISCAL COURT OF SCOTT COUNTY, KENTUCKY, ETC., ET AL.

IN ERROR TO THE COURT OF APPEALS OF THE STATE OF KENTUCKY

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[fols. 1 & 2] [Captions omitted]

[fol. 3] **IN CIRCUIT COURT OF SCOTT COUNTY**

THE GEORGETOWN NATIONAL BANK, Plaintiff,

vs.

OLLIE MCFARLAND, Sheriff of Scott County, Kentucky; Fiscal Court of Scott County, Kentucky, Composed of J. B. Ward, County Judge; Clayton Thomason, County Commissioner; T. K Shuff, County Commissioner; L. F. Aulick, County Commissioner, Defendants.

PETITION

Comes the plaintiff, Georgetown National Bank of Georgetown, Kentucky, and for a cause of action herein says:

That it is a national banking association created, organized and existing under the laws of the United States, commonly called the National Bank act, and the several acts amendatory thereof, and as such is engaged in a general banking business in Georgetown, Scott County, Kentucky, and under its charter has power to contract and be contracted with, sue and be sued, loan money at interest, buy and sell bonds, notes and other demands against individuals and corporations, and thereby earn a profit in its business in the same way and manner as may be done by natural persons.

That the defendant, Ollie McFarland is now, and was at the time of the acts hereinafter set out, the duly elected, qualified and acting Sheriff of Scott County, Kentucky, and that by virtue of his office as such Sheriff, he is the duly authorized collector of all state and county taxes for the county of Scott and State of Kentucky.

[fol. 4] That J. B. Ward, Clayton Thomason, T. K. Shuff and L. F. Aulick, are now and were at the time of the acts hereinafter set out, the duly elected, qualified and acting members, composing the Fiscal Court of Scott County, Kentucky.

That Section 5219 of the United States Revised Statutes, is as follows:

"Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the association is located, but the Legislature of each State may determine and direct the manner and place of taxing all the shares of national banking association located within the State, subject only to the two restrictions, that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individuals citizens of such State, and that the shares of any national banking association owned by nonresidents of any State shall be taxed in the City or town where the bank is located, and not elsewhere.

Nothing herein shall be construed to exempt the real property of associations from either State, County or Municipal taxes, to the same extent, according to its value, as other real property is taxed."

That by Section 4019-A-10 of the Kentucky Statutes, being an Act of 1917 of the Kentucky Legislature, it is provided that the shares of capital stock of all banks located and doing business in Kentucky, shall be subjected to taxation for state purposes, and in addition shall also be subject to taxation for local purposes, that is by city, county and taxing districts in which said banks are located. The [fol. 5] same Statute however, exempts every other person and corporation, other than banks, from paying any tax whatever to any city, county or taxing district in Kentucky, on money in hand, notes bonds, accounts and other credits, whether secured by pledge, mortgage or otherwise, or unsecured, altho such persons and corporation reside in and do business in and own property in such city, county or taxing district. Section 4019-A-10 is in part as follows:

"All property subject to taxation for State purposes as provided in Section 4020, Kentucky Statutes, shall be subject also to taxation in the county, city, school or other taxing district in which same has a taxable situs, except the following classes of property, which shall be subject to taxation for state purposes only:—

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation.

(2) Machinery and products in course of manufacture of persons, firms or corporations actually engaged in manufacturing and their raw material actually on hand at their plants for the purpose of manufacture.

(3) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured.

Shares of stock not relieved from assessment under Section 4088 of this act, provided, however, that nothing in this section shall forbid local taxation of franchise of corporations or of the shares of banks, trust companies or combined banks and trust companies, doing business in Kentucky, or domestic life insurance companies."

Said section then provides for a method of assessing such bank shares [fol. 6] for local taxation, that is for taxation for county, city and district purposes.

That by section 4019 of the Kentucky Statutes, the tax rate on all property, including plaintiff's bank shares, is fixed at forty cents per one hundred dollars of the assessed valuation for state purposes, and that said rate was in full force and effect at the time hereinafter set out, namely for the taxing years of 1919-1920-1921 and 1922.

That the county tax rate in Scott County, as fixed by order of the Fiscal Court of said county, duly passed and entered, was seventy cents per one hundred dollars of the assessed valuation for the taxing year 1919, seventy cents per one hundred dollars of the assessed

valuation for the taxing year 1920, and sixty-five cents per one hundred dollars of the assessed valuation for the taxing year 1921, and sixty-five cents per one hundred dollars of the assessed valuation for the taxing year of 1922.

That by said Act Plaintiff's bank shares were thus made subject to a total tax, state and county of one dollar and ten cents per one hundred dollars for the taxing year 1919; and one dollar and ten cents for the taxing year 1920; one dollar and five cents for the taxing year 1921, and one dollar and five cents for the taxing year 1922, whereas for the same periods, money in hand, notes, bonds, accounts and other credits, being moneyed capital in the hands of individuals citizens, residing in said state and county, and being property of the same class as plaintiff's bank shares, were subject to a tax under said Act of only forty cents per one hundred dollars of the assessed valuation.

[fol. 7] That by said Act, each bank is made an agent for its share holders in assessing for taxation the shares of stock owned by such shareholders in said bank, and is made responsible for the payment of the taxes on such shares.

That all of said acts and constitutional provisions above quoted, were in full force and effect at the time of the matters hereinafter set out, and are now in full force and effect.

The plaintiff's said stock is divided into seven hundred and fifty shares of one hundred dollars each, and was assessed for taxation for the taxing year 1919, at $138,550,00; for 1920 at $134,509.00; for 1921 at $147,575.00; and for 1922 at $144,771.00.

That the Clerk of Scott County, Kentucky, whose duty it is under the laws of the State of Kentucky, to make out the tax bills for state and county taxes, for said county and state, correctly omitted to figure any county tax on the assessed valuation of plaintiff's bank shares in making out the tax bills for the years 1919-1920 and 1921.

That in making out the tax bills for said years, he only figured a state tax of forty cents per one hundred dollars on plaintiff's real estate and bank shares, and a county tax on plaintiff's real estate.

That said tax bills so made out, were presented to plaintiff by the Sheriff of Scott County, for payment in each of said years, and were promptly paid by plaintiff, and it holds receipts therefor.

That said Clerk in the year 1922, acting pursuant to said act above mentioned, namely section 4019-A-10 of the Kentucky Statutes, has [fol. 8] wrongfully and illegally made out what are denominated corrected "taxbills," for said years in which he has wrongfully and illegally figured county taxes against plaintiff's bank shares as follows:—

For the taxing year 1919, a tax at the rate of seventy cents per one hundred dollars of the assessed valuation ($138,550.00); for the taxing year 1920, at the rate of seventy cents per one hundred dollars on the assesssed valuation ($134,509.00); for the taxing year 1921 at the rate of sixty-five cents per one hundred dollars of the assessed valuation of ($147,505.00); a total tax for the three

years of ($2,870.65). That said Clerk for the year 1922, in figuring the tax bills against this plaintiff for said year, has wrongfully and illegally figured a county tax on plaintiff's said bank shares at the rate of sixty-five cents per one hundred dollars of the assessed valuation on the assessed valuation of ($144,771.00) amounting to ($941.01), for the taxing year 1922.

That said Clerk has certified all of said tax bills (so called corrected tax bills), for 1919-1920 and 1921, and the tax bill for 1922 to the Sheriff of Scott County, for collection, and the Sheriff has notified this plaintiff that he holds same for collection, and that he will proceed to levy on the property of this plaintiff for the collection of same unless same are paid.

That this plaintiff has paid all other taxes, both state and county for said taxing years 1919-1920-1921 and 1922, except the taxes wrongfully and illegally made out and attempted to be collected against its bank shares for said years, as set out above.

[fol. 9] That there were residing and doing business within the territorial limits of said county of Scott, State of Kentucky, on July 1st, 1918, that being the date on which is assessed for taxes for the taxing year 1919, at least two hundred and fifty individuals citizens of said state and county, each of whom was the owner and holder on said date, of various unsecured promissory notes, which were of reasonable value in the aggregate of the sum of ($300,000.00), and of various promissory notes secured by mortgage on real estate, which were of the reasonable value in the aggregate of ($600,000.00), and of various notes secured by pledges or mortgage on personal property, which were of the reasonable value in the aggregate of ($200,000.00), and of various bonds and securities for the payment of money not otherwise tax free, which were of the reasonable value in the aggregate of ($200,000.00), and of various bonds and securities for the payment of money not otherwise tax free, which were of the reasonable value in the aggregate of ($200,000.00), and that all of said notes, bonds and securities so owned and held on the assessing date for the year 1919, by such individuals citizens of said county, amounted in value in the aggregate to the sum of ($1,300,000.00).

That the total of unsecured promissory notes so owned and held by individuals citizens of said county and state on July 1st, 1919, that being the assessing date for taxes due and payable in the year 1920, was of the reasonable value of ($350,000.00); of promissory notes secured by mortgage on real estate, ($650,000.00); of promissory notes secured by mortgage or pledge of personal property, ($200,000.00); of bonds and securities for the payment of money not otherwise tax free, ($200,000.00); a total of all such notes, bonds, securities, etc., on the assessing date for the year 1920, of the value of ($1,400,000.00).

[fol. 10] That the total of unsecured promissory notes so owned and held by individuals citizens of said county and state on July 1st, 1920, the assessing date for the year 1921, was of the reasonable value of ($500,000.00); of promissory notes secured by mortgage

on real estate, ($1,000,000.00); of promissory notes secured by mortgage or pledge of personal property, ($250,000.00); of bonds and securities for the payment of money not otherwise tax free ($200,000.00) a total of all such notes, bonds and securities on the assessing date for the year 1921 of ($2,100,000.00), that the total of unsecured promissory notes so owned and held by individuals citizens of said county and state on July 1st, 1921 the assessing date for the year 1922, was of the reasonable value of ($400,000.00); of promissory notes secured by mortgage on real estate ($800,000.00) of promissory notes secured by mortgage or pledge of personal property, ($200,000.00) of bonds and securities for the payment of money not otherwise tax free, ($200,000.00), a total of all such notes, bonds, securities etc., on the assessing date for the year 1922, of ($1,600,000.00).

That all of said promissory notes, bonds and securities so owned and held by such individuals citizens of said county and state, on the assessing date on which taxes are assessed for each of said year- 1919-1920-1921 and 1922, were on the same terms, were in the same form, and were in every respect such notes, bonds and securities as are handled by plaintiff bank in the conduct of its banking business.

That all of such property, so enumerated above, is of the same [fol. 11] class of property as the bank shares of plaintiff, that all of said property came and comes into active and direct competition with the banks of said county of Scott, State of Kentucky, and particularly with plaintiff bank in carrying on its business, and loaning its loanable funds, and in buying, owning, selling and disposing of notes, bonds and other securities for the payment of money, and in making a profit by the use of its capital, surplus and undivided profits in such manner.

That said competition is relatively and actually material in amount, and that each and every item of said property so enumerated above, constituted moneyed capital in the hands of individuals citizens of said county, and was and is of the same class and kind of property as plaintiff's bank shares.

That all of said property, so enumerated above, in the hands of individuals citizens for each of the taxing years above named, 1919-1920-1921 and 1922, was then and is now by the laws of Kentucky, as above set out, put into a class of property that is by said law subjected to an annual tax for state purposes, at the rate of forty cents on the one hundred dollars of assessed valuation at the valuation as above given, and was then and is now by said law expressly relieved of all county, municipal, district and local taxes, and by said laws the only tax collectable on any of said property during any of said years, is the state tax at the rate of forty cents per one hundred dollars of the assessed valuation, whereas as heretofore stated, the tax now sought to be collected on plaintiff's bank shares for said [fol. 12] years, is at the rate of one dollar and ten cents for the taxing year of 1919; one dollar and ten cents for the taxing year of 1920; one dollar and five cents for the taxing year of 1921, and one dollar and five cents for the taxing year of 1922.

That plaintiff's said stock is divided into seven hundred and fifty shares of the par value of one hundred dollars each, and that such shares were assessed on July 1st, 1918, that being the taxing date for taxes due and payable in 1919, at ($138,550.00); on July 1st, 1919 for 1920, at ($134,509.00); on July 1st, 1920, for 1921, at ($147,575.00); on July 1st, 1921, for 1922, at ($144,771.00).

That there are in Scott County, Kentucky, five banks, two national banks and three state banks, that the total valuation of the shares of the National Banks in Scott County, Kentucky, as assessed for taxation for 1919, was ($225,082.00), as assessed for taxation for 1920, ($217,998.00); as assessed for taxation for 1921, ($222,525.00); as assessed for taxation for 1922, ($237,523.00). That the total valuation of the shares of all banks of Scott County, Kentucky, as assessed for taxation for the year 1919, was ($434,029.00); for the year 1920, ($455,139.00); for the year 1921, ($480,276.00), and for 1922, ($539,466.00).

That in each and every county in the State of Kentucky, on the assessing date for the taxing years 1919-1920-1921 and 1922, there were owned and held by individual citizens of each respective county, promissory notes, bonds and other securities for the payment of money, such as have been set out heretofore in respect to [fol. 13] Scott County, Kentucky, the total reasonable value of which on said assessing days was in each of said counties substantially the same or larger than the value of property so owned and held in Scott County, Kentucky, on said dates; that the total assessed valuation of National bank shares, and of state and National bank shares in said counties on each of said assessing dates was substantially the same as that in Scott County, Kentucky, and that the proportion that such total valuation of bank shares bears to the total valuation of such property in the hands of individuals citizens of each of said counties on each of said dates was substantially the same as in Scott County, Kentucky.

That under said laws of the State of Kentucky, hereinbefore set out, all of such property in the hands of individuals citizens of each of said counties, was on all of said dates, made subject only to a tax of forty cents per one hundred dollars of the assessed valuation, and was expressly exempted from all county, municipal and district taxes, whereas bank shares of all banks in all banks in all of said counties, including national banks, were by said law subjected and made liable, not only for state taxes, but for all county, municipal and district taxes of the county, state and taxing district within which such bank was located, altho all such property enumerated above, was moneyed capital in the hands of individual citizens of such county, and altho all such moneyed capital so owned and held in each of said counties by individual citizens thereof, came into direct and active competition with the banks of each of said counties and although such competition was material in amount.

[fol. 14] That the act of the Legislature, being section 4019-A-10, above referred to of the State of Kentucky, which permits and authorizes a tax to be levied for county purposes, and requires such tax to be paid by plaintiffs for its share holders, while at the same time,

it exempts individuals from paying any county taxes at all on money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and exempts such individuals from paying any county taxes at all on such notes, bonds and securities for the payment of money held by individual citizens of Scott County, Kentucky, as hereinbefore set out, is illegal and is null and void, and the tax bills made out there under for the years 1919-1920-1921 and 1922, and now in the hands of the Sheriff for collection, are illegal and void, and that such tax and levy, and said act under which same is attempted to be made, is in violation of the Fourteenth Amendment of the Constitution of the United States, and particularly in violation of and repu*ngen*t to section 5219 of the revised Statutes of the United States, and that said Sheriff and said Fiscal Court, is without any power or authority to make said levy of said tax against this plaintiff's shares, or to collect any part of said tax of ($2,870.65); for the years 1919-1920 and 1921, and ($941.01); for the year 1922.

Plaintiff says that the Constitution of Kentucky, Section 171, as amended in 1915, provides as follows:

[fol. 15] "The General Assembly shall provide by law an annual tax, which with other resources shall be sufficient to defray the estimated expenses of the Commonwealth for each fiscal year.

Taxes shall be levied and collected for public purposes only, and shall be uniform upon all property of the same class, subject to taxation within the territorial limits of the authority levying the tax, and all taxes shall be levied and collected by general laws.

"The General Assembly shall have power to divide property into classes, and to determine what class or classes of property shall be subject to local taxation. Bonds of the State and of counties, municipalities, taxing and school district shall not be subject to taxation."

It says that the law of the State of Kentucky, as contained in the Kentucky Statutes, section 4019-A-10 quoted above herein, is in violation of said provision of said Constitution in that it excludes shares of capital stock of banks from the class of property of "money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured", and in that it makes such bank shares subject to local taxation while it exempts such money in hand, notes, bonds etc. from such local taxation.

That the shares of plaintiff's capital stock of the same class of property as money in hand, notes, bonds, accounts and other credits whether secured by mortgage, pledge or otherwise, or unsecured, and [fol. 16] that they cannot be subjected to any further taxation than is imposed on said money in hand, notes, bonds etc. without violation of the provisions of the Constitution of Kentucky, above quoted, and it says that section 4019-A-10 of the Kentucky Statutes, by which the shares of capital stock of banks are made subject to local taxation, is unconstitutional and void, and that for that reason the Sheriff of Scott County and the said Fiscal Court of Scott County, are without any power or authority to make said levy of any such tax against plaintiffs bank shares for the years 1919, 1920, 1921 and

1922, as hereinbefore set out, or to collect any part of said tax of ($2,870.65); for the years 1919, 1920 and 1921, and $941.01 for the year 1922.

That the total county tax on plaintiff's shares now sought to be collected for the years 1919, 1920 and 1921, and now in the hands of the Sheriff, Ollie McFarland of Scott County, Kentucky, for collection is ($2,870.65);

That the total tax sought to be collected on plaintiff's shares for county purposes, and now in the hands of said Sheriff for collection for 1922 is ($941.01). That the defendant Fiscal Court, and the defendant, Sheriff, are now claiming that said taxes for said years 1919-1920, 1921 and 1922, as above set out, are now due, and demand has been made upon this plaintiff thru said defendant, Sheriff, that it pay said tax, and upon its failure to do so, the said Sheriff threatens and is empowered to collect all of said taxes from this plaintiff by distraint or levy, altho same are uncollectable, illegal and void as hereinbefore set out, and he will unless prevented by this court collect said tax by selling this plaintiff's property, and as a result thereof, this plaintiff will suffer great and irreparable injury against which it has no adequate remedy at law, and in fact no [fol. 17] remedy at all, except in a court of equity by order of injunction of such court restraining the defendant, Scott Fiscal Court, and the defendant, Sheriff, from in any way or manner to collect said taxes.

Plaintiff says that the injunction prayed for in this action has not been refused by a court or any Circuit Judge.

"Paragraph, No. 2"

For further cause of action herein, plaintiff says:

That by Section 4019-A-10 of the Kentucky Statutes, it is further made the duty of this plaintiff bank, to make a certain report to the assessing officer of the county in which said bank is located, and such assessing officer on said report shall assess the shares of said bank for tax purposes in his particular taxing district.

By Section 4020 of the Kentucky Statutes, all property is required to be assessed at its fair cash value.

That this plaintiff did file with the assessing officer of the County of Scott, and State of Kentucky, a statement showing its capital, surplus and undivided profits for the taxing year 1922 and that this plaintiff fixed as the fair cash value of its said shares in making said return, eighty-five per cent of the sum total of the book value of its said capital, surplus and undivided profits, namely the sum of ($119,000.00).

That without notice of any kind to this plaintiff, or without any chance for a hearing of any kind to the plaintiff, the tax officials of [fol. 18] said county arbitrarily and without right, raised the valuation and assessment of plaintiff's bank shares to more than its fair cash value, and fixed the same at the valuation of ($144,771.00);

That such raise in the valuation of plaintiff's shares without notice and without chance for a hearing, was unlawful and illegal and

without right, and that in any event it was unlawful and illegal to raise said shares to more than the fair cash value as was done, as above stated.

That after said assessment on said bank shares was unlawfully and illegally raised as above stated, to the figure of ($144,771.00) the Clerk of Scott County, Kentucky, as above stated, made out tax bills against plaintiff for both state and county taxes, and figured said taxes on said increased valuation of $25,771.00 at the state rate of forty cents per one hundred dollars and at the county rate of sixty-five cents per one hundred dollars, a total tax for the year 1922 on such increased valuation of plaintiff's shares of ($270.59); and that said tax bills so unlawfully and illegally made out, were certified by said Clerk to the Sheriff of Scott County, Kentucky, Ollie McFarland, for collection.

That as stated in paragraph one, all of said tax bills and tax on plaintiff's shares, in so far as it is figured for county purposes is unconstitutional, illegal and void, and such tax bill, in so far as the state tax on plaintiff's shares is concerned, is unconstitutional, illegal and void, except as to a tax at the rate of forty cents per one hundred dollars on plaintiff's bank shares, at the valuation of ($119,000.00), [fol. 19] that being the original valuation placed on said shares by this plaintiff before said illegal raise was made, and that being the fair cash value of said bank shares, and it says it has paid all tax for said year legally assessable and collectable against it.

That such raise in the assessed valuation of plaintiff's bank shares as above stated, without notice of any kind to this plaintiff, was in violation of the Constitution of the State of Kentucky, and in violation of the Fourteenth Amendment of the Constitution of the United States, in that it deprived this plaintiff of its property, without due process of law, and in that it deprived this plaintiff of the equal protection of the law, and that the tax of ($270.59) figured on such illegal raise on the valuation of said shares is uncollectable, illegal and void.

That the Sheriff, the defendant, Ollie McFarland, has said tax bill in his hands for collection, and will proceed to collect said tax for the year 1922 in full as certified to him in said bill unless restrained by this court.

That the amount of the county taxes assessed on the illegal increase in the valuation of plaintiff's shares for the year 1922, figured at the county rate for that year of sixty-five cents on each one hundred dollars of valuation is ($167.51), that the amount of the state tax on such illegal increase in the assessed valuation on plaintiff's shares for 1922, figured at the state rate of forty cents per one hundred dollars of the assessed valuation is ($103.08); making a total state and county tax for the year 1922, assessed against plaintiff's shares by [fol. 20] reason of said illegal increase in the valuation of such shares, ($270.59). That the said Fiscal Court, and the said sheriff, defendants herein, are now claiming that said tax as assessed on such illegal increase in the sum of ($270.59), for the year 1922, is now due, and demand has been made upon this plaintiff thru said defendant, Sheriff, that it pay such tax, and upon its failure to do so,

the said Sheriff threatens and is empowered to collect all of said tax from this plaintiff by distraint or levy, and he will unless prevented by this court collect said tax by selling this plaintiff's property, and as a result thereof, this plaintiff will suffer great and irreparable injury against which it has no adequate remedy at law, or indeed no remedy at all, except in a court of equity by order of injunction of such court, restraining the defendant, Scott Fiscal Court, and the defendant, Sheriff of Scott County, from in any way or manner proceeding to collect such taxes.

Plaintiff says that the injunction prayed for in this action has not been refused by a court or any Circuit Judge. Plaintiff again says that it has paid all taxes for the year 1922 except such as are illegal, uncollectable and void, as herein set out.

Wherefore, plaintiff prays for a temporary restraining order, enjoining and restraining the defendants from collecting or attempting to collect any of said tax for the year 1919, 1920 and 1921, said tax amounting as a whole for said years to ($2,870.65), being the tax assessed against plaintiff's shares for county purposes for said years, [fol. 21] and from collecting or attempting to collect any of said tax for 1922, said tax amounting to ($941.01), being the amount assessed against plaintiff's shares for county purposes for the year 1922, or from collecting or attempting to collect any part of the tax assessed for county and state purposes on the illegal increase in the valuation of plaintiff's shares for the year 1922, amounting to ($270.59); and prays that it be adjudged that the Act of the Legislature above set out, being Section 4019-A-10 of the Kentucky Statutes is in violation of and repugnant to Section 5219 of the revised statutes of the United States, and is in violation of and repugnant to Section 171 of the Kentucky Constitution as amended, and of the Fourteenth Amendment of the Constitution of the United States, and that same is null and void, and that the attempt of the defendant to charge to and collect from plaintiff any tax for local purposes on its said bank shares, is without authority of law, and that such attempt on the part of the defendants is unauthorized and illegal; and that it be further adjudged that the increase in the assessed valuation of plaintiff's bank shares for the year 1922, as set out in paragraph two, without notice to plaintiff, is illegal unauthorized and void, and that the tax both for state and county purposes on such illegal increase is uncollectable and void, and it further prays that upon the hearing for temporary injunction there be granted to it an injunction pendente lite of the above character, and that upon final hearing said temporary injunction be made permanent, and prays for its costs, and for all proper and equitable relief.

[fol. 22] (Signed) Bradley & Bradley and James Bradley, Attys. for Plff.

In Circuit Court of Scott County

[Title omitted]

Orders of Injunction—Filed Sept. 22, 1922

The defendants, Ollie McFarland, Sheriff of Scott County, Ky., and the Fiscal Court of Scott County Ky., composed of J. B. Ward, County Judge and Clayton Thomasom, T. K. Shuff and L. F. Aulick, county Commissioners are hereby enjoined from collecting or attempting to collect any tax for the year 1922 against the plaintiff, Georgetown National Bank except at the rate of forty cents for State purposes on each one hundred dollars of ($119,000.00); the assessed value of said plaintiff's shares of stock and $10,000.00 real estate as listed by plaintiff with the tax commissioner for the year 1922 and at the rate of sixty-five cents for county purposes on each one hundred dollars of the assessed value of plaintiff's real estate as listed by plaintiff with the tax commissioner and they and each of them are further enjoined from collecting or attempting to collect any tax whatever against plaintiff's property for the years 1919, 1920 and 1921.

Witness, B. B. Hall, clerk of said court this 22nd day of September 1922.

(Signed) B. B. Hall, C. S. C. C.

[fol. 23] There was issued upon the foregoing petition, an Order of Injunction, said order is as follows:

[Title omitted]

The Commonwealth of Kentucky to Ollie McFarland, sheriff of Scott County, Ky., and the Fiscal Court of Scott County, Ky., composed of J. B. Ward, county judge, and Clayton Thomason, T. K. Shuff, and L. F. Aulick, county commissioners:

You and each of you are hereby enjoined from collecting or attempting to collect any tax for the year 1922 against the plaintiff, Georgetown National Bank, except at the rate of forty cents for State purposes on each one hundred dollars of ($119,000.00); the assessed value of said plaintiff's shares of stock and ($10,000.00) real estate as listed by plaintiff with the tax commissioner for the year 1922 and at the rate of sixty-five cents for county purposes on each one hundred dollars of the assessed value of plaintiff's real estate as listed by plaintiff and you and each of you are further enjoined from collecting or attempting to collect any tax whatever against plaintiff's property for the years 1919, 1920 and 1921.

Witness, B. B. Hall clerk of said court this 22nd day of September 1922.

B. B. Hall, C. S. C. C.

[fol. 24] Said order of injunction is endorsed on the back thereof as follows:

Executed by delivering a true copy of the within order of injunction to Ollie McFarland, Sheriff of Scott County, and to J. B. Ward, County Judge of Scott County, this September 22nd 1922. (Signed) Ernest Ashurst, Coroner of Scott County.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

MINUTE ENTRY—Oct. 2, 1922

The petition filed herein, on the 22nd day of September 1922, is this day noted of record.

[fol. 25] IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

SUBMISSION OF DEMURRER TO PETITION—Oct. 22, 1922

This day came the defendants by attorney and filed a demurrer to the petition herein, and the court not being advised on said demurrer takes time.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

DEMURRER TO PETITION—Filed Oct. 22, 1922

Come the defendants herein and demur generally to the plaintiff's petition herein, and to each paragraph thereof on the ground that same does not nor does either paragraph thereof state sufficient facts to constitute a cause of action against those defendants.

(Signed) H. C. Ford, Atty. for Defendants.

[fol. 26] IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

ANSWER—Filed May 28, 1922

Come the defendants, Ollie McFarland, Sheriff of Scott County, and J. B. Ward, Clayton Thomasson, T. K. Shuff, and L. F. Aulick,

composing the Fiscal Court of Scott County, Kentucky, and without waiving their demurrer to the plaintiff's petition and to each paragraph thereof, but still insisting that said petition and neither paragraph thereof states a cause of action against these defendants; for answer herein to the first paragraph of the plaintiff's petition, they deny that for the taxing year of 1919, or for the taxing year of 1920, or for the taxing year of 1921, or for the taxing year of 1922, money in hand, notes, bonds, accounts, or other credits, being moneyed capital in the hands of individual citizens residing in said state and county, or being property of the same class as plaintiff's bank shares, were subject to a tax under said Act of only forty cents per one hundred dollars of the assessed valuation; or that any money in hand, notes, bonds, or other credits, were moneyed capital in [fol. 27] the hands of individual citizens residing in said state and county, or were property of the same class as plaintiff's bank shares; and they deny that the clerk of Scott County correctly omitted to figure any county tax on the assessed valuation of the plaintiff's bank shares in making out the tax bills for the year 1919, 1920 and 1921, or that said clerk has wrongfully or illegally made out what is denominated corrected tax bills for said years, or in which he has wrongfully or illegally figured county taxes against plaintiff's bank shares for the taxing year 1919, at the rate of 70 cents per $100. of the assessed valuation of ($138,550.00); or for the taxing year 1920 at the rate of 70 cents per $100. of the assessed valuation of ($134,509.00); or for the taxing year 1921 at the rate of 65 cents per $100. of the assessed valuation of ($147,505.00); a total tax for the three years of ($2,870.65) or that said clerk for the year 1922, in figuring the tax bills against this plaintiff for said year, has wrongfully or illegally figured a county tax on plaintiff's said bank shares at the rate of 65 cents per $100. of the assessed valuation of $144,771.00; amounting to ($941.01); for the taxing year of 1922.

They deny that there were residing or doing business within the territorial limits of said county of Scott and State of Kentucky on July 1st 1918, at least two hundred and fifty or any individual citizens of said state and county, each of any of whom was the owner or holder on said date of various or any unsecured promissory notes, which were of the reasonable value in the aggregate of the sum of ($300,000.00); or any amount; or of various promissory notes [fol. 28] secured by mortgage on real estate which were of the reasonable value in the aggregate of ($600,000.00); or any amount, or of various promissory notes secured by pledge or mortgage on personal property which were of the reasonable value in the aggregate of ($200,000.00), or any amount; or of various bonds securities for the payment of money not otherwise tax free, which were of the reasonable value in the aggregate of ($200,000.00), or any amount, or that all or any of said notes or bonds or securities so owned or held on the assessing date for the year 1919 by such individual citizens of said county and state amounted in value in the aggregate to the sum of ($1,300,000.00), or any amount.

They deny that the total of the unsecured promissory notes owned or held by individual citizens of said county and state on July 1st, 1919, was of the reasonable value of ($350,000.00), or any amount, or of promissory notes secured by mortgage on real estate ($650,000.00), or any amount; or of promissory notes secured by mortgage or pledge on personal property, ($200,000.00), or any amount; or of bonds or securities for the payment of money, not otherwise tax free, ($200,000.00), or any amount; or a total of all such notes, bonds, securities, etc, on the assessing date for the year 1920 of the value of ($1,400,000.00), or any amount.

They deny that the total of unsecured promissory notes so owned or held by individual citizens of said county and state on July 1st, 1920, was of the reasonable value of ($500,000.00), or any amount; or of promissory notes secured by mortgage on real estate of ($1,000,000,00), or any amount, or of promissory notes secured by mortgage [fol. 29] or pledge on personal property, ($250,000.00), or any amount; or of bonds or securities for the payment of money, not otherwise tax free, ($200,000.00), or any amount; or a total of all such notes, bonds, or securities on the assessing date for the year 1921 of ($2,100,000.00), or any amount.

They deny that the total of unsecured promissory notes owned or held by individual citizens of said county and state on July 1st 1921, was of the reasonable value of ($400,000.00), or any amount; or promissory notes secured by mortgage on real estate, $800,000.00, or any amount; or promissory notes secured by mortgage or pledge on personal property, ($200,000.00), or any amount; or bonds or securities for the payment of money, not otherwise tax free, ($200,000.00); or any amount; or a total of any such notes, bonds, securities, etc., on the assessing date for the year 1922 of ($1,600,000.00), or any other amount.

They deny that all or any of said promissory notes, bonds, or securities so owned or held by such individual citizens of said county and state on the assessing dates on which taxes were assessed for each of said years, 1919, 1920, 1921, or 1922, were on the same terms, or were in the same form, or were in every or in any respect such notes, bonds, or securities as are handled by plaintiff bank in the conduct of its banking business; or that all or any of said property is of the same class as the bank shares of plaintiff; or that all or any of said property came or come into active or direct, or any competition with the banks of said county of Scott, State of Kentucky, or particularly or at all with plaintiff bank in carrying on its business, or loaning [fol. 30] its loanable funds or in buying or owning or selling or disposing of notes or bonds or other securities for the payment of money; or in making a profit by the use of its capital or surplus undivided profits in such manner.

They deny that said competition is relatively or actually material in amount, or that each or every or any item of said property so enumerated above constituted moneyed capital in the hands of individual citizens of said county and state, or was or is of the same class or kind of property as plaintiff's bank shares.

They deny that in each or every or any county in the state of Kentucky upon the assessing dates for the taxing years 1919, 1920, 1921, or 1922, there were owned, or held by individual citizens of each or any respective county, promissory notes, bonds, or other securities for the payment of money such as have been set out heretofore in respect to Scott County, Kentucky, or that the total reasonable value of the same on said assessment days was in each of said counties substantially the same or larger than the value of the property so owned or held in Scott County, Kentucky, on said dates, or of any value or that all or any such property was moneyed capital in the hands of individual citizens of such counties; or that same or any part thereof came into direct or active competition with the banks of each or any of said counties, or that such competition was material in amount.

They deny that the Act of the Legislature, being Section 4019 a-10, which permits and authorizes a tax to be levied for county purposes and requires such tax to be paid by plaintiff for its bank shares, is illegal or is null or void, or that the tax bills made out [fol. 31] thereunder for the years 1919-1920-1921 or 1922, are illegal, or are void; or that such tax or levy, or that said act under which same is attempted to be made is in violation of the fourteenth amendment to the Constitution of the United States; or particularly or at all in violation of or repugnant to Section 5219 of the revised Statutes of the United States, or that said Sheriff, or said Fiscal Court, is without any power or authority to make said levy for said tax against this plaintiff's bank shares, or to collect any part of said tax of ($2,870.65) for the years 1919-1920-1921; or ($941.01); for the year 1922.

They deny that the law of the State of Kentucky, as quoted in the Kentucky Statutes, Section 4019-A-10 is in violation of certain or any provision of said Constitution in that it excludes shares of capital stock of banks from the class of property of money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured; or in that it makes such bank shares subject to local taxes while it exempts such money in hand, notes, bonds, etc., from such local taxes.

They deny that the shares of plaintiff's capital stock are of the same class of property as money in hand, notes, bonds, accounts, or other credits, whether secured by mortgage, pledge, or otherwise, or unsecured; and deny that they can not be subjected to any further taxation than is imposed on said money in hand, notes, bonds, etc., without violating the provisions of the Constitution of Kentucky; and they deny that section 4010-A-10 of the Kentucky Statutes is [fol. 32] unconstitutional or void; or that the Sheriff of Scott County or the Fiscal Court of Scott County are without power or authority to make said levy of said tax against the plaintiff's bank shares for the years 1919-1920, 1921 and 1922, as hereinbefore set out; or to collect said tax of $2,870.65); for the years 1919-1920 and 1921, and ($941.01) for the year 1922; or that said taxes are uncollectable or illegal or void; or that plaintiff will suffer great, irreparable or any, injury by reason of the collection and enforcement of said tax.

"2"

For answer to paragraph 2 of the plaintiff's petition, the defendants deny that without notice of any kind to this plaintiff or without any chance for a hearing of any kind to the plaintiff the tax officials of said county either arbitrarily or without right, or at all, raised the valuation or assessment of the plaintiff's bank shares to more than its fair cash value; or that such raise in the valuation of the plaintiff's shares was without notice or without chance for a hearing; or was unlawful or illegal, or without right, or that in any event it was unlawful or illega-; or that said shares were raised to more than their fair cash value; or that said assessment on said bank shares was unlawfully or illegal raised to the figure of ($144,771.00); or at all; or that after said assessment was fixed at ($144,771.00); that the tax bills made out by the clerk of Scott County, Kentucky, against the plaintiff for state and county taxes were unlawfully or illegally made out; or that all or any of said tax bills, or tax on plain-
[fol. 33] tiff's shares, in so far as it is figured for county purposes, is unconstitutional or illegal, or void, or that said tax bill, in so far as the state tax on plaintiff's shares is concerned, is unconstitutional, or illegal, or void, except as to a tax at the rate of 40 cents per $100 on plaintiff's bank shares at the valuation of ($119,000.00) or that ($119,000.00); or that ($119,000.00) is the fair value of said bank shares; or is the original valuation placed on said shares by this plaintiff; or that the plaintiff was required or did in any manner place said valuation, or any valuation, on its bank shares; or that the plaintiff has paid all taxes for said year legally assessable and collectible against it.

They deny that there was any raise in the assessed valuation of plaintiff's bank shares as alleged in plaintiff's petition; or that there was any in the same without notice of any kind to the plaintiff; or that any such raise was in violation of the Constitution of the State of Kentucky, or in violation of the Fourteenth amendments of the Constitution of the United States, in that it deprived plaintiff of its property without due process of law; or in that it deprived the plaintiff of the equal protection of the law; or that the tax of ($270.59): on the valuation of said shares is illegal or is an illegal raise, or is uncollectible or void; or that the plaintiff will suffer great, irreparable, or any injury by reason of the enforcement and collection of said tax.

For further answer to the second paragraph of the plaintiff's petition, the defendants say that the manner of assessing bank shares for taxation in the state of Kentucky for the year 1922, as provided by Section 4019-A-10, is as follows:

[fol. 34] "Every State bank and trust company incorporated under the laws of this Commonwealth and every national bank doing business therein and located in any country, city, town, or taxing district in this Commonwealth shall make to the assessing officer of the county, city, town or taxing district a report showing the following facts, to-wit:

The name and postoffice address of the bank or trust company; the name of the president, cashier and board of directors thereof; the number of shares of stock and the par and market value of each share; the amount of surplus fund and undivided profits; the amount of its deposits; the amount of cash on hand; the amount of bonds; and other securities held by it; the amount loaned on mortgaged and the amount of its loans and discounts; the amount of value of all real estate situated in this Commonwealth, and owned by the bank and trust company on the first day of September of each year; and such other information as may be required.

The assessing officer of the county, city, town or taxing district wherein any trust company, State and National bank is situated shall assess the shares of such trust company, State and National bank for taxation for State, county, city, town and taxing district purposes.

Each bank and trust company shall be entitled to have deducted from the total valuation placed on its shares by said board the assessed value of its real estate in this State.

It shall be the duty of the trust company and banks to list with the county assessor of each county and with the assessing officer in [fol. 35] each city, town and taxing district its real estate an- pay the taxes thereon to the Sheriff and to the collecting officer of each city, town and taxing district, and such officer shall make out and return the assessment to the proper authorities of the county, city, town or taxing district at the same time and manner as prescribed by law for the return of the assessment of personal property herein.

"The equalization, collection, penalties and laws relating thereto now provided by law for other personal property in the county, city, town or taxing district, shall apply in like manner to the collection of the taxes herein provided for."

The defendants say that pursuant to said provision of the Kentucky Statutes the plaintiff did, by its Cashier George T. Hambrick, on July 20th, 1921, and for as of July 1st, 1921, make to the assessing officer of Scott County the report required by the statute, a true copy of which is filed herewith, marked Exhibit "A."

They say that said report so filed by the plaintiff showed "Capital Stock Paid in Cash ($75,000.00)" "Surplus Fund, Including Funds Transferred for Dividends not Paid Out and Expenses not Used on July 1st ($79,771.95)," making a total of capital and surplus of ($144,771.95); that said bank also listed with the county assessor of said county its real estate at the valuation of ($10,000.00), that the assessing officer of said county did thereupon in accordance with said law, after deducting the valuation of the plaintiff's real estate, fix and assess the value of the plaintiff's bank shares at the sum of ($144,771.95), which amount was the true and correct amount [fol. 36] taken from the report of the capital and surplus as filed by the plaintiff, after making said deducti-ng for real estate.

They state that said amount fixed by the assesser was the original and only assessment of said bank shares made by the assessor at the time and in the manner provided by law, and based upon the in-

formation given him by the plaintiff's report; that same was never, at any time nor in any manner, raised or increased by any assessing officer of said county.

They state that the equalization of property of said county, including the plaintiff's bank shares, is by law made by the board of Supervisors of said county, the time and place of whose meeting is fixed and provided by Section 4119 of the Kentucky Statutes as follows:

"The said supervisors shall convene at the county seat on the second Monday of March. At the time of their meeting the county clerk shall deliver to said supervisors the assessor's book for the county, together with the order and recommendations of the Tax Commissioner, which shall be considered by said board, with other information, in ascertaining and fixing the value of property in the county."

They state that the said Board of Supervisors did convene at the county seat of Scott County on the second Monday of March, 1922, and duly approved the said original assessment of the plaintiff's bank shares without raising or altering the same in any manner whatever; and the same was thereafter duly certified to the Sheriff for collection in the manner provided by law.

[fol. 37] They state that Section 4019-A-10, above quoted, which required the assessing officer of the county to fix and assess the value of plaintiff's shares of stock at the time and in the manner provided by said Statute constituted full and ample notice to the plaintiff that the said shares of stock would be assessed by said assessor on the basis of said report in the manner that it was done; and that said Section 4119 of the Kentucky Statutes constituted ample notice to the plaintiff of the time and place of the meeting of the Board of Supervisors of said county for the purpose of equalizing said assessment so made by the assessing officer upon the basis of the plaintiff's report.

Wherefore, having fully answered, the defendants pray that the plaintiff's petition be dismissed and that they recover from the plaintiff their costs herein expended; and they pray for all proper and equitable relief.

(Signed) H. C. Ford, Attorney for Defendants.

EXHIBIT "A" TO ANSWER

Report of Banks, Trust Companies, and Combined Banks and Trust Companies for the Purposes of Taxation on Bank Shares and Tax on Bank Deposits

This report must be made in duplicate, and must show the condition of the bank at the beginning of business on July 1st. One copy of the report must be filed with the County Tax Commissioner of the county in which the corporation is located, and the other [fol. 38] must be forwarded to the Tax Commissioner at Frankfort,

Kentucky. These reports should be made out and turned over to the proper officers not later than August 1st.

Report of Georgetown National Bank doing business in the town of Georgetown, County of Scott, State of Kentucky, at the beginning of business on July 1st, 1921

1. Loans and discounts	$1,017,113.97
2. United States and other bonds, stock and other securities	81,289.73
3. Capital stock paid in cash	75,000.00
4. Surplus fund, including funds transferred for dividends not paid out and expenses not used on July 1st	79,771.95
5. Undivided profits	.00
6. Deposit subject to check	486,757.68
7. Time deposits	144,035.07
8. Saving deposits	219,035.03
9. Number of shares of stock	750.
10. Par value of shares of stock	100.00
11. Market value of shares of stock	220.00
12. Book value of shares of stock	200.00
13. Actual value of shares of stock	200.00
14. Amount loaned on mortgages	170,142.60
15. Value of all real estate	15,000.00
16. Assessed value of real estate as of July 1st, 1921	10,000.00
17. Amount of real estate and fixtures charged off:	
Real estate	.00
Fixtures	.00

[fol. 39] Post office address of corporation: Georgetown, Ky.
Name and address of President: J. W. Thacker, Georgetown, Ky.
Name and address of cashier: G. T. Hambrick, Do. Do.
Name and address of each member of the Board of directors:

J. W. Thacker,	Georgetown, Ky.	R. H. Wolfe,	Georgetown, Ky.
V. A. Bradley,	Do.	L. B. Murphy,	Do.
J. L. Carrick,	Do.	G. T. Hambrick,	Do.
M. F. Thacker,	Do.	J. R. Downing,	Louisville, Ky.
J. Willie Hall,	Do.		

Annual Report of Georgetown National Bank, of Georgetown, Ky., at Georgetown, County of Scott, State of Kentucky, to State Tax Commissioner, July 1st, 19—

Total amount of deposits, including time deposits and saving deposits, July 1st, 1922 (Beginning of business July 1st)	$849,857.78

Amount of deposit not subject to taxation as follows:

To the credit of U. S. Government or government official, public funds	0
To the credit of State of Kentucky or State official, public funds	0
To credit of Scott County or county official public funds	2,529.47
To credit of city or city official, public funds	0
To credit of public schools—school board or treasurer of school fund—public funds	362.97
To credit of public library or endowment fund	118.01
[fol. 40] To credit of any religious or charitable institution of the State, charity alone	5,594.11
To credit of non-residents where money is not derived from business done in Kentucky	0
To credit of franchise paying corporations and domestic life insurance companies (name to be given elsewhere on this blank)	689.21
To credit of building and loan associations	4,707.54
To credit of other banks or trust companies	4,526.81
Total amount on deposit	849,857.78
Total amount of deposits not subject to taxation	18,528.12
Balance on deposit subject to taxation @ 10¢ on the $100	831,329.66
Total amount of taxes due under this report	831.33

Bank Deposit Report

List of Franchise-paying Corporations and Amount of Deposit

Kentucky Traction and Terminal Co.	689.21

STATE OF KENTUCKY,
County of Scott:

I, G. T. Hambrick, Cashier of above named corporation, do solemnly swear that the above statements are true to the best of my knowledge and belief.

(Signed) G. T. Hambrick.

Subscribed and sworn to before me by G. T. Hambrick on this the 20th day of July, 1921. (Signed) L. P. Bradley, Notary Public, Scott County, Kentucky. My Commission expires January 18th, 1922.

[fol. 41] IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

SUMMONS—June 16, 1923

It appearing to the court from motion of the plaintiff, that it is material to the issues in this case to have certain records of the Kentucky State Tax Commission as evidence herein, Ben Marshall, Secretary of the State Tax Commission, is hereby ordered to appear before Harry Bright, a Notary Public of Franklin County, Kentucky, at the office of the state Tax Commission in Frankfort, Kentucky, to testify in behalf of the plaintiff in the above styled cause, and he will bring with him the records of said State Tax Commission, showing the list of intangible property given in for assessment in Scott County, Kentucky, as of July 1st 1921, and such other records of said Tax Commission as will be necessary for him to give comparison and figures on the intangible property assessed in the various counties of the State of Kentucky and he will also bring with him all reports on file in his office made by the Georgetown National Bank of Georgetown, Kentucky, for tax purposes in said year.

The said Harry Bright, Notary Public, of Franklin County, is hereby empowered to issue subpœna "duces tecum," for the said Ben [fol. 42] Marshall, in accordance with this order, to appear before him on Wednesday, the 19th, day of September, 1923, at the office of the State Tax Commission, between the hours of nine A. M. and five P. M. to give his deposition herein.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

MINUTE ENTRIES—Oct. 1, 1923

Depositions for the plaintiff received thru the mail in good order on the 22nd day of September, 1923, and also Exhibits "A" "B" and "C" is this day filed and noted of record.

The deposition and also the Exhibits referred to in the foregoing order, will be found on pages 65 to 97.

[fol. 43] [Title omitted]

This day came J. Craig Bradley and filed Stipulation in regard to taking of proof in *in* the above styled case.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

STIPULATION RE STATEMENT OF PROOF—Filed Oct. 1, 1923

It is hereby stipulated and agreed by the parties, plaintiff and defendants hereto, that in the above styled case they will take proof in regard to the various issues of fact as of the assessing date, July 1st, 1921, for the taxes due and payable in the year 1922, and that they will take no specific proof as to the other years in question in this action, but that it will be understood and agreed, and it is hereby understood and agreed that the state of facts as shown to exist by the proof for the above mentioned year, will be taken as indicative of the facts for the other years in question, and that all the matters [fol. 44] at issue for the various years, shall be decided in accordance with the facts as they are shown to exist for that year.

(Signed) Jas. Bradley, Bradley, Bradley & Bradley, Attys. for Plaintiff, and H. C. Ford, Attorney for Defendants.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

MINUTE ENTRY—Oct. 1, 1923

This day came the Georgetown National Bank, by attorney and filed its reply herein.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

REPLY—Filed Oct. 1, 1923

Comes the Georgetown National Bank and reply to the defendant's [fol. 45] answer herein, by consent of parties and leave of court, makes this a formal traverse of record of any affirmative allegations that there may be in the first paragraph of defendant's answer.

For further reply to the second paragraph of defendant's answer, plaintiff says that it is true that Section 4019-A-10 of the Kentucky Statutes, is as quoted in defendant's answer.

It says further however that pursuant to and acting under said section, certain blank forms were furnished the plaintiff bank, by the State Tax Commission, and by the assessing officer of Scott County, one of which blank forms is as quoted and copied in defendant's answer.

It says that in addition to said form copied in defendant's answer, there was a second form furnished to this plaintiff bank, by the State taxing authorities, and the assessing officer of Scott County, which form said bank was directed and required to fill out and return to the state and local assessing officer of Scott Co. Copy of this form as filled out and returned by plaintiff bank to the State Tax Commission, and to the local assessing officer of Scott County as of date 1st July, 1921, that being the assessing date, for the taxes due and payable in the fall of 1922, is filed herewith.

[fol. 46] It says that by said form it was required to and did place a valuation on its said bank shares of one hundred and nineteen thousand dollars ($119,000.00), but it says that without notice of any kind to it, and without a chance of any kind for it to be heard, said valuation was raised by the State Tax Commission and the local assessing officer of Scott County to the sum of one hundred and forty-four thousand, seven hundred and seventy-two dollars and ninety-five cents ($144,772.95); and said valuation so raised by the State Tax Commission, and the local assessing officer of Scott County, was returned to the office of the local assessing officer of Scott County, and again without notice of any kind to this plaintiff, said raised valuation was approved by the Board of Supervisors of Scott County, Kentucky, at their regular meeting in March 1922.

It says that said raise was made simply by running a pen thru the figures one hundred and nineteen thousand dollars ($119,000.00); and writing above said figures on the original form handed in by this plaintiff, the figures one hundred and forty-four thousand seven hundred and seventy two dollars and ninety-five cents (144,772.95), and that as stated above, same was without notice of any kind to plaintiff.

It denies that the amount, one hundred and forty-four thousand, seven hundred and seventy-two dollars and ninety-five cents ($144,772.95); was the original or only assessment of said bank shares or [fol. 47] that same was made by the Assessor at the time or in the manner provided by law, or that same was based upon information given by plaintiff's report, but says that the same was raised and increased by the assessing officers of the State and County as heretofore set out.

It says that it is true that section 4019-A-10 of the Kentucky Statutes, provides for the equalization of property as set out in defendant'd answer, but it denies that said report as filed by said bank, or said original assessment of plaintiff's bank shares was duly approved or approved at all by the Board of Supervisors without raising or altering same in any manner whatever, but says that same was raised, certified and approved as hereinbefore set out.

It denies that Section 4019-A-10 of the Kentucky Statutes constituted full or amply or any notice to plaintiff that its said shares of stock would be assessed by said Assessor on the basis of said report in the manner in which it was done, or that said Section constituted any notice to plaintiff of any kind in regard to said assessment, and it denies that Section 4019-A-10- of the Kentucky Statutes

constituted ample or any notice to plaintiff of the time or place of the meeting of the Board of Supervisors of said county, for the purpose of equalizing said assessment so made by the assessing officer upon the basis of plaintiff's report, or constituted any notice to plaintiff of any kind in regard to said assessment.

[fol. 48] It says that as quoted in defendant's answer, Section 4019-A-10- provides as follows:

"The equalization, collections, penalties and losses relating thereto now provided by law for other personal property in the county, city, town or taxing district, shall apply in like manner to the collection of taxes herein provided for."

It says further that by Section 4022 of the Kentucky Statutes it is provided:

"The Sheriff shall notify all such taxpayers whose list has been increased or assessed by the Board, and also notify them of the time to which the Board adjourns."

It says that as stated above, no notice either under this section or at all, was given this plaintiff of any raise made on its said bank shares, altho said assessing officer of the county, and said Board of Equalization, and said State Tax Commission did raise the assessment placed on its said bank shares as set out above

Wherefore, having fully replied to defendant's answer, it prays as in its original petition, and for all other proper relief.

(Signed) Bradley & Bradley, Attorneys for Plaff

[fol. 49] In Circuit Court of Scott County

[Title omitted]

Minute Entry—Oct. 1, 1923

This day came the plaintiff, by attorney and filed their amended petition herein.

In Circuit Court of Scott County

[Title omitted]

Amended Petition—Filed Oct. 1, 1923

For additional cause of action in so far as it seeks to enjoin the collection of the tax bills made out against it for the years 1919-1920 and 1921, the plaintiff comes and states that for said years it was its duty under Section 4019-A-19 of the Kentucky Statutes,

to list its bank shares for taxation; that it did do so, and the calcu-
[fol. 50] lation was placed thereon of one hundred and thirty-eight thousand, five hundred and fifty dollars (138,550.00) for 1919; one hundred and thirty-four thousand, five hundred and nine dollars (134,509.00) for 1920, and one hundred and forty-seven — dollars (147,557.00) for 1921.

That under Section 4239 A, it was the duty of the Clerk of the Scott County Court to make out tax bills for each of said years against this plaintiff on its said shares at the assessed valuation and to turn same over to the Sheriff of Scott County for collection.

That the said Clerk of the Scott County Court did make out such bills for each of said years in which the tax on plaintiff's said shares was computed at the rate of forty cents per one hundred dollars on said assessed valuation for each of said years, and the total tax due shown in said bills for each of said years. That said bills so made out were turned over to the Sheriff of Scott County for collection, and were presented to this plaintiff by said Sheriff, and duly paid by this plaintiff when due and it holds receipt therefor.

That thereafter, namely in the year 1922, said Clerk without notice of any kind, or opportunity for a hearing of any kind on the part of this plaintiff, made out additional tax bills against the shares of this plaintiff for each of said years denominated "corrected tax," in which a tax of seventy cents per one hundred dollars of said valua-
[fol. 51] tion was figured for 1919, and a tax of seventy cents per one hundred dollars of such valuation was figured for the year 1920, and a tax of sixty-five cents per one hundred dollars of assessed valuation for 1921, amounting in all for the three years to the sum of twenty-eight hundred and seventy dollars and sixty-five cents ($2,870.65); and tax bills so figured were made out for each of said years for said respective amounts by said Clerk, and turned over to the Sheriff for collection, and that such tax so figured and presented for collection in said tax bills was in addition to the tax paid by plaintiff for each of said years.

It says that such tax bills so made out are the same bills the collection of which is herein sought to be enjoined, for each of said years.

It says that said tax bills so made out for 1919-1920 and 1921, amounting in the ag-regate to said sum of twenty-eight hundred and seventy dollars and sixty-five cents ($2,870.65); were made out by said Clerk without any right or authority of any kind, that same are illegal, void and of no effect, and are illegal, void and of no effect in the hands of the Sheriff of Scott County, and for that reason are uncollectable and unassessable by him against this plaintiff, and that the Sheriff, the defendant herein, has no right or authority of any kind of nature whatsoever, under said tax bills, or at all to enforce collection of said sums as represented by said tax bills against this plaintiff.

[fol. 52] It says that the defendant, the Fiscal Court, and the defendant, the Fiscal Court, and the defendant Sheriff of Scott County, are now claiming that said tax as represented by said bills for the years 1919, 1920, and 1921 as above set out, are now due, and de-

mand has been made upon this plaintiff thru said defendant, Sheriff, that it pay said tax, and upon its failure to do so, the Sheriff threatens to collect all of said taxes from this plaintiff by distraint or levy, altho same are illegal and void as hereinbefore set out, and he will unless prevented by this court collect said tax by selling this plaintiff's property, and as a result thereof plaintiff will suffer great and irreparable injury against which it has no adequat- remedy at law, and in fact no remedy at all, except in a court of equity by order of injunction of said court restraining the defendant, Scott Fiscal Court, and the defendant, Sheriff from in any way or manner proceeding to collect said tax.

Comes plaintiff and for further cause of action herein, says that Section 174 of the Constitution of the State of Kentucky is as follows:

"Corporate, to be Taxed Like Individual Property—Income—License—Franchises.—All property whether owned by natural persons or corporation, shall be taxed in proportion to its value, unless exempted by this Constitution, and all corporate property shall pay [fol. 53] the same rate of taxation paid by individual property. Nothing in this Constitution shall be construed to prevent the General Assembly from providing for taxation based on income licenses or franchises."

It reiterates and reaffirms all the allegations in its original petition in which the rate of taxation on bank shares, and all other classes of personal property, is set out in full. It says further that the law of the State of Kentucky as contained in the Kentucky Statutes, Section 4019-A-10 quoted heretofore, in its original petition, is in violation of said provision of said Constitution in that, by placing a tax of forty cents on certain property, namely "money in hand, notes, bonds, accounts and other credits, whether by mortgage, pledge or otherwise, or unsecured," and held by individuals and by placing a different and a higher rate on plaintiff's bank shares, plaintiff being a corporation, it subjects corporate property, namely, Plaintiff's bank shares, to a different and higher rate of taxation from that imposed on individuals' property, namely, money in hand, notes, bonds, etc., as set out above.

It again says that the shares of plaintiff's capital stock are of the same class of property as money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and that under said Section they cannot be subjected [fol. 54] to any higher or different rate of taxation than is imposed on said money in hands notes, bonds, etc., owned by individuals, without violating the above quoted provision of the Constitution of the State of Kentucky, and for that reason it says that Section 4019-A-10 of the Kentucky Statutes, is unconstitutional and void, and further that the Sheriff of Scott County, and said Fiscal Court of Scott County, are without any power or authority to make said levy of any such tax against plaintiff's bank shares for the years

1919, 1920 and 1921 and 1922, as hereinbefore set out, or to collect any part of said tax for said years as hereinbefore set out.

Wherefore, it prays as in its original petition, and for all other proper relief.

(Signed) Bradley & Bradley, Attorneys for Plaintiff.

[Title omitted]

[fol. 55] In Circuit Court of Scott County

[Title omitted]

Minute Entry of Filing of Answer—Oct. 3, 1923

This day came the defendants, without waiving its demurrer to amended Petition heretofore filed, but insisting and relying on said demurrer files its answer to amended petition and counter claim herein.

In Circuit Court of Scott County

[Title omitted]

Demurrer to Amended Petition

Come the defendants and demur generally to the amended petition herein filed by the plaintiff on the ground that said amended petition and no part ther-of sets up any facts sufficient to constitute a cause of action herein.

(Signed) H. C. Ford, Attorney for Defendants.

[fol. 56] In Circuit Court of Scott County

[Title omitted]

Answer to Amended Petition—Filed Oct. 3, 1923

Come the defendants, and, without waiving their demurrer herein, for reply to the amended petition herein filed state it is true that the Clerk of the Scott County Court made out and delivered to the Sheriff corrected tax bills for the years set out in the petition and amended petition and that it was necessary for the Clerk to make out said corrected tax bills by reason of the facts that the original tax bills made out by the Clerk failed to include any of the tax due from the plaintiff except the tax due for state purposes only; and the corrected tax bills were made out for the purpose of including upon said tax bills the taxes due for each of said years from the plaintiff for

county purposes and that as so corrected the said tax bills for the years of 1919, 1920, 1921, and 1922, correctly showed the amount of tax due for each of said years from the plaintiff for county purposes at the rate duly fixed by the Fiscal court of Scott County, for each of said years for county purposes in accordance with the assessment of the bank shares of the plaintiff as shown by the Assessor's books of said county; and the defendants deny that said tax bills were made out by the Clerk without right or authority, or that same were illegal or void or of no effect in the hands of the Sheriff of Scott County or that they are uncollectable or unassessable by him against the plaintiff, or that the defendant Sheriff has no right or authority [fol. 57] of any kind or nature under said tax bills to enforce the collection of said sums as represented by said tax bills against the plaintiff; but they say that said tax bills were made out by said clerk in the performance of his official duty under the laws made and provided for that purpose and are valid and legal tax bills in the hands of said Sheriff subject to be enforced by him and col-ected by him as other taxes.

For further answer to said amended petition the defendants deny that the shares of the plaintiff's capital stock are the same class of property as money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured or that under Section 174 of the Constitution or any other part of the constitution they can not be subjected to any higher or different rate of taxation than is *impnased* on said money in hand notes, bonds etc. owned by individuals without violating the Constitution of the State of Kentucky; but they say that pursuant to and in accordance with the Constitution the said bank shares are made and constitute a specific class of property and; deny that Section 4019-A-10 of the Kentucky Statutes is unconstitutional; or void, but say that the classification of bank shares under the said provision of the Kentucky Statutes is legal and valid and in accordance with Section 171 of the Constitution of Kentucky, as amended, which provides:

[fol. 58] "The General Assembly shall have power to divide property into classes and to determine what class or classes *or* property shall be subject to local taxation."

Paragraph Number 2

Come the defendants, J. B. Ward, Clayton Thomasson, T. K. Shuff, and L. F. Aulick, and state that they compose the Fiscal Court of Scott County, and for further answer herein and by way of counterclaim against the plaintiff the said Scott Fiscal Court for the use and ben*i*fit of Scott County, says that the rate duly fixed by order of the Fiscal Court of Scott County purposes was the sum of 70 cents upon each $100.00 of property assessed for the taxing year of 1919, and 70 cents upon each $100.00 of assessed valuation for the taxing year of 1920, and 65 cents per $100.00 for the assessed valuation for the taxing year of 1921, and 65 cents per $100.00 of the assessed *n*aluation for the taxing year of 1922; and they state

that for the taxing year of 1919 the shares of the plaintiff were duly assessed at the sum of ($138,550.00); and for the year 1920 at (-134,509.00), and for the year 1921 at ($147,575.00), and for the year 1922 at ($144,771.00); and they state that in each of said years the clerk of the Scott County Court, whose duty it is under the law to make out the tax bills for state and county taxes for said county and state, by mistake omitted to include any county tax on the tax [fol. 59] bills made out for each of said years against the plaintiff, Georgetown National Bank, on the assessed valuation of its bank shares, and only figured the rate of taxation for state purposes on the plaintiff's bank shares, and that by reason thereof the plaintiff failed to pay any part of its said taxes to Scott County for any of said years upon its bank shares. And now, for counter*cal*im herein, the said Fiscal Court of Scott County, for and on Behalf of Scott County, says that the plaintiff owes as taxes to Scott County the sum of 70 cents per $100.00 upon the sum of (-138,550.00); for the year 1919; and the sum of 70 cents per $100.00 upon the sum of (-134,509.00); for the year 1920; and the sum of 65 cents per $100.00 upon (-147,-575.00); for the year 1921; and the sum of 65 cents per $100.00 upon (-144,771.00); for the year 1922; no part of which has been paid, although demand has been made therefor by the Sheriff and corrected tax bills have been made out and presented for said taxes; that in addition to said taxes the said plaintiff owes the interest and penalties provided by law, by reason of its failure to pay said taxes, no part of which has been paid.

The defendants say that if for any reason that said corrected tax bills in the hands of the Sheriff are invalid or are unenforce-able by [fol. 60] the Sheriff, that these defendants are entitled nevertheless to recover from the plaintiff for the use and benefit of Scott County the amount of said taxes for each of said years figured at the rate her-inbefore stated upon the assessable valuation of said bank shares as above stated.

Wherefore, the defendants, having fully answered, pray that the plaintiff's petition and amended petition be dismissed, but if the court should be of the opinion that the corrected tax bills herein-above referred to are invalid or unenforce-able in the hands of the Sheriff, the Scott Fiscal Court prays judgment upon its cross petition for the use and benefit of Scott County against the plaintiff for the amount of said taxes due for county purposes in each of said years at the rate fixed as hereinabove stated upon the assessed valuation of the plaintiff's bank shares assessed in each of said years; and they pray for their costs herein expended and all proper relief.

(Signed) Ford & Ford, Attorneys for Defendants.

[fol. 61] IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

MINUTE ENTRY OF FILING OF DEMURRER—Oct. 5, 1923

This day came the plaintiff by attorneys and filed a demurrer to the second paragraph of defendants' answer to the amended petition, and to the second paragraph of the counter-claim therein, and the court not being advised on said demurrer takes time.

[fol. 62] IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

DEMURRER TO ANSWER TO AMENDED PETITION—Filed Oct. 5, 1923

Comes the plaintiff, Georgetown National Bank, and demurrers to the second paragraph of defendants' answer to the amended petition, and to the second paragraph of the counterclaim therein presented, because same does not state facts sufficient to constitute an answer to said amended petition, or to constitute a counter-claim against this plaintiff.

(Signed) Bradley & Bradley, Attorneys for Plaintiff.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

ORDER OVERRULING DEMURRER—Oct. 5, 1923

The demurrer filed her-in by plaintiff to the second paragraph of defendants' answer to the amended petition and to defendants' counter-claim, heard by the court is overruled to which ruling of [fol. 63] the court, plaintiff objects and excepts, thereupon by agreement of parties all affirmative allegations of the first paragraph of said answer and county-claim are traversed of record, and by agreement of parties the original petition of plaintiff may be and the same is taken as reply to the said answer and counter-claim as a whole.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

MINUTE ENTRY OF FILING STIPULATION OF FACTS—Oct. 19, 1923

This day came V. A. Bradley, by agreement and filed stipulation of facts in the above styled cause.

[fol. 64] IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

STIPULATION OF FACTS—Filed Oct. 19, 1923

For the purpose of the trial of this case, it is stipulated and agreed that there are two Building and Loan Associations now located and doing business in Georgetown, Scott County, Kentucky, one the Scott County Building and Loan Association, and the other the Georgetown Building and Loan Association.

That each of said Building and Loan Associations are engaged in the business of loaning money on real estate mortgages on city property in the city of Georgetown.

That the Scott County Building and Loan Association had loaned out in the year 1921 on such real estate mortgages, the sum of ($56,000.00), and that the Georgetown Building and Loan Association had loaned on such mortgages in said year, the sum of ($70,000.00). That the amount of tax to be paid by said Building and Loan Associations is fixed by Section 4919-A-5, and 4019-A-8 [fol. 65] of the Kentucky Statutes, and that such tax is fixed at one dollar for each one thousand dollars paid in on its capital stock.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

MINUTE ENTRY OF FILING TESTIMONY AND EXHIBITS—Oct. 19, 1923

This day came Victor A. Bradley and filed depositions for the plaintiff herein and also Exhibits Tax Receipts.

The depositions and also the Exhibits referred to in the foregoing order will be found on pages 98 to end of this *of this* transcript.

[fol. 66] IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

MINUTE ENTRY—Oct. 19, 1923

On motion of the attorney of the plaintiff this cause is ordered heard.

[fol. 67] IN CIRCUIT COURT OF SCOTT COUNTY

JUDGMENT—Oct. 19, 1923

This cause coming on for hearing and being submitted to the court first on the pleadings and particularly on the demurrer to

plaintiff's petition, it is now adjudged by the court that the demurrer to said petition, and to each and very paragraph thereof, be and the same is hereby overruled to which ruling of the court in overruling said demurrer to said petition, and to each and every paragraph thereof, defendant objected and excepted at the time, and still excepts, the cause then being submitted to the court on the pleadings, proof and argument of counsel, and the court being advised, it is now adjudged that there are in the hands of individuals who are citizens and residents of Scott County, Kentucky, money in hand, Notes, bonds, and other credits, secured by pledge, mortgage and otherwise and unsecured, which said notes, bonds and other credits etc. so held by such individuals come into direct and active competition with the bank shares of plaintiff, and with the conduct of its banking business generally, and that such competition is material in amount, which said property is of the same class and character of property as plaintiff's bank shares, and that Section 4019-A-10 of the Kentucky Statutes, attempts to impose a higher and greater rate of taxation on plaintiff's said bank shares than it does on such property above enumerated in the hands of such individuals, and that by said Act such property in the hands of individuals is subject to a tax for state purposes only of forty cents per one hundred dollars of assessed valuation, whereas by said act plaintiff's bank shares are made subject in addition to said forty [fol. 68] cent tax rate to a county and a municipal tax. It is further adjudged that Section 4019-A-10 of the Kentucky Statutes in so far as it imposes any tax on the shares of Nat'l Banks in the State of Kentucky, in excess of the state tax at the rate of forty cents per one hundred dollars assessed valuation, that being the sum total of taxes imposed by said Act on money in hand, notes, bonds, accounts and other credits, whether secured by pledge, mortgage or otherwise, or unsecured, in the hands of individual owners residing in said state, is in violation of and repugnant to section 5219 of the United States Revised Statutes, and of the Fourteenth Amendment of the Constitution of the United States, and of Section 171 of the Kentucky State Constitution, and it is further adjudged that for said reason said portion of said act is null and void.

It is further adjudged that for the reasons above given, the tax bills against plaintiff's bank shares for the years 1919, 1920, and 1921, made out by the County Clerk of Scott County, and presented to plaintiff by the Sheriff of Scott County for payment, which said tax bills are for tax on plaintiff's bank shares in excess of the rate of forty cents per one hundred dollars on assessed valuation are illegal and uncollectable; and it is further adjudged that the tax bill for the year 1922 for the same reason is illegal and uncollectable except [fol. 69] for such portion of said bill as represents a tax on plaintiff's bank shares at the rate of forty cents per one hundred dollars on the assessed valuation of one hundred and nineteen thousand dollars ($119,000.00), and a tax rate of one dollar and five cents ($1.05) per one hundred dollars on the assessed valuation of plaintiff's real estate as given in for said year. It is therefore adjudged

that the injunction herein, be made permanent, and that the Fiscal Court of Scott County, and the Sheriff of Scott County, defendants herein, be and they are perpetually enjoined and restrained from collecting any of said Tax bills as presented in this action for the yearse 1919, 1920 and 1921 and from collecting any of said tax bill for the year 1922, except a tax on plaintiff's bank shares at the rate of forty cents per one hundred dollars on the assessed valuation of one hundred and nineteen thousand dollars ($119,000.00), and a tax of one dollar and five cents ($1.05) per one hundred dollars on the assessed valuation of ten thousand dollars on plaintiff's real estate.

It is further adjudged that the raise on the assessed valuation of plaintiff's bank shares attempted to be made by the State Tax Commission of the State of Kentucky, by which the valuation on said shares was attempted to be raised from one hundred and nineteen thousand dollars ($119,000.00) as given in by plaintiff for assessment, to the valuation of one hundred and forty-four thousand, seven hundred and seventy-one dollars ($144,771.00), is null and void, for the reason that no notice of any kind was ever given to [fol. 70] plaintiff bank, of such attempted raise as herein set out, and it is adjudged that no tax is collectable against plaintiff's said bank shares except on the assessed valuation of one hundred and nineteen thousand dollars ($119,000.00) as originally given in by said bank.

To all of which ruling of the court, the defendants and each of them objects and excepts, and pray an appeal to the Court of Appeals, which is granted.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

TESTIMONY OF BEN MARSHALL

The deposition of Ben Marshall, taken at the office of the Tax Commission, in Frankfort, Kentucky, on Wednesday, September 10th, 1923, to be used in behalf of the plaintiff in the above-styled action, now pending in the Scott Circuit Court, written acceptance of notice on the part of the defendants being filed herewith.

[fol. 71] Appearances: For plaintiff, Judge James Bradley, J. Craig Bradley, both of Georgetown, Ky.; for defendants, H. Church Ford, of Georgetown, Ky.

The deponent, BEN MARSHALL, being first duly sworn, testified as follows:

Direct examination.

By J. Craig Bradley, counsel for the plaintiff:

1. Please state your full name, age and present occupation?

A. Ben Marshall; 61; Secretary State Tax Commission.

2. As Secretary of the State Tax Commission are you in charge of the records of the Commission?

A. I am.

3. I ask you as a part of your deposition to make from your records a certified copy of the intangible, personal property list filed by the County of Scott, State of Kentucky, as of taxing date July 1st, 1921, for the taxes due and payable in the Fall of 1922, showing in [fol. 72] detail the various kinds of intangible property listed in that county for that year for taxation.

A. I have a certified copy of the intangible schedules filed as of July 1st, 1921, by the various taxpayers of Scott County, which I now file, marking it "Marshall Exhibit A."

4. Does the Kentucky State Tax Commission get out an annual report showing the various assessed valuations of banks, assessment of intangible property, real estate, etc., for each year in Kentucky?

A. It does.

5. I show you a compilation which purports to be such a compilation for 1922 and ask you if that is the official compilation for that year?

A. Yes; that is the official compilation, and the assessment as reported in that was made as of July 1st, 1921.

6. And was made from the original assessment blanks as filed with the Commission?

A. Yes, sir.

7. Please make that a part of your deposition, marking it "Marshall, Exhibit B."

A. I will.

8. I call your attention to page 52 of that report and ask you to state what the total valuation of bank shares in the State of Kentucky was in the year 1922, as of July 1st, 1921?

A. $64,183,735.00.

[fol. 73] 9. I call your attention to that column and to the figures in the first column to the left and ask you if those figures indicate counties?

A. Those figures, beginning with 81 at the top and ending with 120 at the bottom, indicate counties,—beginning with McLean and ending with Woodford.

10. Then the lesser figures are on another page for the other counties?

A. Yes, sir.

11. And the total opposite those numbers represents the total value of bank shares for that particular county?

A. Yes, sir.

12. And the total at the bottom of the column is the total for the entire State?

A. Yes, sir.

13. I call your attention, too, to the column immediately preceding that in which the total value of bank shares, is given, and ask you if that represents the total value of intangible personal property for the counties?

A. It does.

14. And the $309,704,155 is the total for the entire State of intangible?

A. It is.

15. Have you or not any compilation that shows the various items that go to make up the total intangible property in the various counties and in the State as a whole for that year?

A. I have not; the only one that I have is that of Scott county, which was made at your request.

16. I call your attention to page 59 of this same compilation and ask you if that is a recapitulation of the total assessed value of the [fol. 74] intangible property, real estate, etc., of the State for that year?

A. It is.

17. As Secretary of the Commission do you have charge also of the original reports filed by the various banks of Scott County for taxation for this year?

A. I have.

18. I show you the reports filed by the Georgetown National Bank for that year and ask you if you will make a copy of those reports and file them as a part of your deposition, marking them "Marshall Exhibit C"?

A. I will.

19. I call your attention to the particular blank which is headed "Assessment of Banks and Trust Companies, Real Estate and Bank Shares for 1921," and I note that in the column "Bank Shares" the assessment was originally given in by the bank as $140,000 less 15%—$119,000. That is correct, is it not? That is the way it came in originally?

A. Yes, sir.

20. I note that the $119,000 is scratched out in red pencil. I will ask you if that was done at this office?

A. That was done under the instructions of this office.

21. Then the figures $144,772 were written above under the same instructions?

A. Yes, sir; under the same instructions.

22. How did your office arrive at the total to which you raised the assessment,—$144,772.00?

A. By adding the capital surplus and the undivided profits as [fol. 75] shown on page two of the blank a- 11- 12- which was filed at the same time.

23. These two blanks are filed at the same time and are the official blanks sent out by the Tax Commission for the banks to make their report on, are they not?

A. They are.

24. I note in the same blank to which I have called your attention that there are other figures scratched out and different totals placed above them. The figures scratched out, I take it, were the original figures given by the Bank?

A. They were.

25 And the figures placed above were the raised figures placed there by this office?

A. Yes.

26. I will ask you if similar raises were made in the same way on other banks?

A. They were.

27. And for the same purpose, to raise their valuation to a total of 100% of capital, surplus and undivided profits?

A. Yes.

28. The assessment as originally given in by the Georgetown National Bank was at the rate of 85% of this total?

A. That is correct.

29. I also call your attention to the Farmers Bank of Georgetown, [fol. 76] Kentucky, and ask you if their report was originally given in at the 84% rate?

A. Same thing.

30. And changed the same way?

A. Yes, sir.

31. I also call your attention to the First National Bank of Georgetown, Kentucky, to the same bank, and ask you if the same condition exists?

A. Yes, sir.

32. These reports as changed were then certified back to the local assessor? That is correct is it not?

A. These reports changed in this office and sent back to the local assessor for him to O. K. and enter on his books as the change was then made.

And further the Deponent sayeth not.

(Signed) Ben Marshall.

The Notary Public Certificate attached to the foregoing deposition is as follows:

STATE OF KENTUCKY,
County of Franklin, set:

I, Harry G. Bright, a Notary Public in and for the aforesaid State [fol. 77] and County, certify that the foregoing deposition of Ben Marshall was taken before me at the time and place and for the purpose set out in the caption; that said witness was duly sworn before deposing, and that said evidence was taken down by me in shorthand and afterwards reduced to typewriting, and that the foregoing typewritten transcript constitutes a true, full and accurate — thereof.

I further certify that the dependent read the said typewritten transcript when same was produced to him by me, after which he signed same in my presence.

I further certify that the appearances as to counsel were set out on page two hereof, and that neither plaintiff nor defendants were present in person.

In testimony whereof, witness my notarial seal and hand this the 19th. day of September, 1923.

(Signed) Harry G. Bright, Notary Public, Franklin County, Kentucky. My commission expires February 19th, 1925. (Seal.)

Acceptance of notice to the taking of the deposition referred to in the foregoing is as follows:

[fol. 78] Notice of the taking of the deposition of Ben Marshall for Wednesday, September 19th, 1923, at Frankfort, Kentucky, is hereby accepted.

(Signed) H. C. Ford, Attorney for Defendants.

IN CIRCUIT COURT OF SCOTT COUNTY

[Title omitted]

SUMMONS AND SHERIFF'S RETURN

It appearing to the court from motion of the plaintiff, that it is [fol. 79] material to the issues in this case to have certain records of the Kentucky State Tax Commission as evidence herein, Ben Marshall, Secretary of the State Tax Commission, is hereby ordered to appear before Harry G. Bright, a Notary Public for Franklin County, Kentucky, at the office of the State Tax Commission in Frankfort, Kentucky, to testify in behalf of the plaintiff in the above styled cause, and he will bring with him the records of said State Tax Commission, showing the list of intangible property given in for assessment in Scott County, Kentucky, as of July 1st, 1921, and such other records of said Tax Commission as will be necessary for him to give comparison and figures on the intangible property assessed in the various counties of the State of Kentucky, and he will also bring with him all reports on file in his office, made by the Georgetown National Bank of Georgetown, Kentucky, for tax purposes in said year.

The said Harry G. Bright, Notary Public, of Franklin County, is *here* hereby empowered to issue subpœna duces tecum, for the said Ben Marshall, in accordance with this order, to appear before him on Wednesday, the 19th day of September, 1923, at the office of the State Tax Commission, between the hours of nine A. M. and five P. M. to give his deposition herein.

The subpœna referred to in the foregoing order is as follows:

To the Sheriff of Franklin County, Kentucky, Greetings:

[fol. 80] You are hereby commanded to summons Ben Marshall, Secretary of the State Tax Commission, to appear before me at the office of the State Tax Commission in Frankfort, Kentucky, on Wednesday, the 19th day of September, 1923, to testify on behalf of the plaintiff in the case of Georgetown National Bank against Ollie McFarland & Etc., now pending in the Scott Circuit Court, and he will bring with him the records of the State Tax Commission, showing the list of intangible property given in for assessment in Scott County, Kentucky, as of July 1st, 1921, and such other records of said Tax Commission as will be necessary for him to give comparison and figures on the intangible property assessed in the various counties of the State of Kentucky and he will also bring with him all reports on file in his office, made by the Georgetown Nat'l. Bank of Georgetown, Kentucky, for tax purposes in said year.

Given under my hand and notarial seal, this the 19th, day of Sept., 1923.

(Signed) Harry G. Bright, Notary Public, Franklin County, Kentucky. My commission expires Feby. 19th, 1925. (Seal.)

Said Subpœna is endorsed on the back thereof as follows:

[fol. 81] Executed in full September 19th, 1923.
(Signed) John M. Lucas, S. F. C., by R. Carey Mahan, D. S.

The Exhibits referred to on page 40, order No. 5, and also referred to in the foregoing deposition of Ben Marshall and "Ma-ked Marshall Exhibit A," is as follows:

In Circuit Court of Scott County

Statement of Evidence

MARSHALL EXHIBIT "A"

Assessment of Intangible Property in Scott County as of July 1st, 1921

Names of taxpayers	Bonds	Stock	Secured notes	Unsecured notes	Accounts	Other intangible	Total assessment
1. Mr. Sudia F. Atkins	.....	.....	14,000	.....	.....	.....	$14,000
2. Elisha Alexander	.....	.....	100	.....	.....	.....	100
3. L. F. Aulick	.....	.....	12,500	3,500	.....	.....	16,000
W. R. Alford	.....	.....	2,200	.....	.....	.....	2,200
5. B. Anderson, Trustee	.....	.....	.....	.....	.....	.....	.....
6. Mrs. Bob Hinton	.....	.....	.....	.....	.....	394	394
7. Adams & Cassidy	.....	.....	.....	1,500	500	.....	2,000
8. J. W. Adams	.....	.....	.....	200	.....	.....	200
9. L. S. Atkins	.....	.....	24,000	.....	.....	.....	24,000
10. W. S. Allphin	.....	.....	.....	.....	300	.....	300
11. Elnora, Kate and 12. Lualla Allen	.....	.....	2,000	.....	.....	.....	2,000
13. W. D. Ashurst	.....	.....	.....	.....	200	.....	200
14. Geo. H. Allen	.....	.....	.....	2,000	.....	.....	2,000
15. Mrs. Fida F. Adams	.....	.....	7,480	.....	.....	.....	7,480
16. W. F. Anderson	.....	.....	700	.....	.....	.....	700
17. A. P. Brown	.....	1,120	.....	.....	.....	.....	1,120
18. Jas. Bradley, Gdn.	.....	.....	.....	7,000	.....	.....	7,000
19. Jas. Bradley	.....	.....	8,000	.....	.....	.....	8,000

Assessment of Intangible Property—Continued

Names of taxpayers	Bonds	Stock	Secured notes	Unsecured notes	Accounts	Other intangible	Total assessment
20. Jas. Bradley, Tr.	.....	.....	6,000	.....	.....	.....	6,000
21. S. P. Bryant	.....	.....	1,500	.....	.....	.....	1,500
22. Mrs. Laura Burgess	.....	.....	2,000	.....	.....	.....	2,000
[fol. 83]							
23. Bradley Studio	.....	.....	.....	.....	300	.....	300
24. W. D. Beatty	.....	.....	.....	4,000	.....	.....	4,000
24. M. M. Bell	.....	.....	1,111	.....	.....	.....	1,111
24. O. J. Bramuback	.....	.....	4,100	.....	.....	.....	4,100
27. N. C. Bailey	.....	.....	.....	1,000	.....	.....	1,000
28. Church Barkley	.....	.....	.....	100	.....	.....	100
29. J. F. Blythe	.....	.....	50	.....	.....	.....	50
30. Jones & Barkley	.....	.....	.....	.....	750	.....	750
31. J. W. Bridges	.....	.....	12,200	.....	.....	.....	12,200
32. V. A. Bradley	.....	4,900	.....	.....	.....	.....	4,900
33. John H. Bean	.....	.....	500	.....	.....	.....	500
34. Marshall Biddle	.....	.....	500	.....	.....	.....	500
H. C. Biddle	.....	.....	1,600	.....	.....	.....	1,600
36. W. H. Burgess	.....	.....	.....	170	.....	.....	170
37. J. Craig Bradley	.....	.....	900	.....	.....	50	950
38. Mrs. J. W. Barkley	.....	.....	14,000	.....	.....	.....	14,000
39. Geo. Barnhill	.....	.....	1,200	.....	.....	.....	1,200
40. B. F. Bridges	.....	.....	19,500	3,000	.....	.....	22,500
41. H. Bridges	.....	.....	11,975	.....	.....	.....	11,975
42. Dave Blythe	.....	.....	1,200	.....	.....	.....	1,200

43. Mrs. W. A. Blythe			800				800
44. N. M. Burgess			2,000				2,000
[fol. 84]							
45. W. R. Bailey			150				150
46. Harry Craig					200		200
47. Cecil Cantrill							
48. Trustee & etc.		7,260					7,260
49. J. T. Cunningham			175				175
50. R. T. Coghill			650		3,500		4,150
51. Nancy E. Cooper			14,000				14,000
52. Miss Sarah E. Curtis			12,600				12,600
I. A. Congleton, Agt						677	677
54. W. J. Carley			8,500	5,283			13,783
55. Jessie Campbell			2,000				2,000
56. Onie Cook			2,500				2,500
57. A. Cartinpone			166				166
58. Andrew Cunningham			500				500
Tom Cunningham			100				100
60. Mrs. Flora Caldwell			500				500
61. Mrs. Minnie Crutcher		2,150	4,111				6,261
62. Dr. R. D. Coffman			2,325				2,325
63. Mrs. Florence Cook			14,850				14,850
64. B. S. Calvert			6,385				6,385
65. R. B. Drake			700				700
66. R. J. Drake			5,000				5,000
[fol. 85]							
67. Albert De Moss			2,000				2,000
68. A. Dunn			300				300

Assessment of Intangible Property—Continued

Names of taxpayers	Bonds	Stock	Secured notes	Unsecured notes	Accounts	Other intangible	Total assessment
69. W. S. Dickerson	800	.....	.....	.....	.....	.....	800
70. J. I. Davis	.....	.....	5,500	.....	.....	.....	5,500
71. Ward Duvall	.....	.....	3,000	.....	.....	.....	3,000
72. C. S. Davis	.....	.....	3,000	.....	.....	.....	3,000
73. Jack H. Dycus	.....	.....	.....	.....	.....	17,596	17,596
74. Mary H. Edwards	.....	.....	2,000	.....	.....	.....	2,000
75. J. A. Barkley	.....	.....	330	.....	.....	.....	330
76. D. S. Farmer	.....	.....	5,000	4,500	.....	.....	9,500
77. Farmers Bank & Trust Co. Trustee M. M. Bastel	.....	.....	5,600	.....	.....	.....	5,600
78. Same for Levi Prewitt	.....	.....	20,000	.....	.....	.....	20,000
79. Thos. F. Finneran	.....	300	.....	.....	.....	.....	300
80. Ed Flynn	.....	.....	150	.....	.....	.....	150
81. L. L. Fugett	.....	.....	7,050	.....	.....	.....	7,050
82. Chas. P. Fields, Gdn	.....	.....	1,400	.....	.....	.....	1,400
83. J. S. Fleming	.....	.....	7,500	.....	.....	.....	7,500
84. J. L. Fleming	.....	.....	2,000	.....	.....	.....	2,000
85. Wm. Flag	.....	935	.....	5,000	.....	.....	5,935
86. Chas. P. Fields	.....	1,270	.....	.....	.....	.....	1,270
87. Mrs. Fannie Gano	.....	.....	800	.....	.....	.....	800
[fol. 86]							
88. J. C. Ginn	.....	.....	.....	.....	300	.....	300
89. Mrs. Carrie Goldslowing	.....	.....	1,125	.....	.....	.....	1,125
90 Miss Martha R. Green	.....	25	.....	.....	.....	.....	439

91. Golden & Parry	.....	.....	.....	.....	200	.....	200
92. W. C. Graves	.....	.....	44,300	.....	.....	.....	44,300
93. Mason Generals	.....	.....	.....	100	.....	.....	100
94. C. O. Graves	.....	3,000	595	.....	.....	.....	3,595
95. Mrs Lida Garth Gidson	.....	.....	4,500	.....	.....	.....	4,500
96. Mrs John S. Gaines	.....	.....	8,475	.....	.....	.....	8,475
97. John S. Gaines	.....	.....	2,290	.....	.....	.....	2,290
98. James B. Glass	.....	.....	.....	2,000	.....	.....	2,000
99. J. B. Graves	.....	.....	140,000	.....	.....	.....	140,000
100. Mrs Mary Graves	6,000	.....	.....	.....	.....	.....	6,000
101. Mrs A. T. Glenn	.....	.....	3,650	.....	.....	.....	3,650
102. Ernest Graves	.....	.....	1,200	.....	.....	.....	1,200
103 Emma K. Herndon	.....	.....	1,900	.....	.....	.....	1,900
104. Mrs Charles Hall	.....	.....	3,150	.....	.....	.....	3,150
105. W. P. Hinton	.....	.....	260	.....	.....	.....	260
106. H. J. Honeykamp	.....	.....	4,000	1,000	.....	.....	5,000
107. Mrs Massie Hamon	.....	.....	4,000	.....	.....	.....	4,000
108. G. T. Hambrick & J. R. Downing Trustee & Etc	.....	.....	40,000	.....	.....	.....	40,000
109. F. E. Hall,	.....	.....	6,000	.....	.....	.....	6,000
[fol. 87]							
110. Susan Herndon	.....	.....	4,200	.....	.....	.....	4,200
111. D. R. Henderson & Wife	.....	.....	.....	.....	200	.....	200
112. Mrs. Lillie Huggins	.....	.....	3,600	.....	.....	.....	3,600
113. M. L. Hughes	.....	.....	2,550	.....	.....	.....	2,550
114. G. W. Hayden	.....	.....	.....	400	.....	.....	400
115. Orie Hardin	.....	.....	2,000	.....	.....	.....	2,000
116. Mrs. W. T. Hunleugh	.....	.....	13,300	.....	.....	.....	13,300

Assessment of Intangible Property—Continued

Names of taxpayers	Bonds	Stock	Secured notes	Unsecured notes	Accounts	Other intangible	Total assessment
117. Hichey Brothers	.....	.....	.....	2,000	.....	.....	2,000
118. T. C. Henry	.....	.....	95	.....	.....	.....	95
119. C. T. Hendricks	.....	.....	5,000	.....	.....	.....	5,000
120. J. M. Hendricks	.....	.....	1,000	.....	.....	.....	1,000
121. B. B. Hall	.....	.....	13,000	.....	.....	.....	13,000
122. R. A. Hamilton	.....	100	.....	.....	.....	.....	100
123. J. A. Hamilton, Admr	.....	.....	3,400	.....	.....	.....	3,400
124. Tom Hook,	.....	.....	175	.....	.....	.....	175
125. J. W. Howard	.....	.....	.....	275	.....	.....	275
126. F. W. Hudson	.....	.....	10,000	.....	.....	.....	10,000
127. Herring Henkins & Co.,	.....	....	.....	1,000	14,000	.....	15,000
128. Ira W. House	.....	.....	6,000	.....	.....	.....	6,000
129. Henry Hutton	.....	.....	1,960	.....	.....	.....	1,960
130. Lorena Hamilton	.....	.....	1,000	.....	.....	.....	1,000
131. Thos. Hitchen	.....	.....	100	.....	.....	.....	100
132. Mrs J. W. Ingram	.....	.....	2,000	.....	.....	.....	2,000
[fol.88]							
Mrs. E. J. Jones	.....	.....	3,200	.....	.....	.....	3,200
134. W. T. Jones	.....	.....	800	.....	.....	.....	800
135. Mrs. J. L. Jackson	.....	.....	450	.....	.....	.....	450
136. Johnson & Wright	.....	.....	.....	.....	500	.....	500
137. Mrs. Fannie Jenkins	.....	.....	800	.....	.....	.....	800
138. Oscar Jameson	.....	.....	23,667	.....	.....	.....	23,667
139. Garland Johnson	.....	.....	.....	400	.....	.....	400

140. Daisy & J. G. Johnson				200			200
141. John P. Jarvis				100			100
142. Mrs. W. T. Juett			3,000				3,000
143. G. B. Johnson			2,100				2,100
144. Bernard Johnson			1,500				1,500
145. Jameson & Nichols			1,000				1,000
146. Orah N. Jameson			17,686				17,686
147. Johnson & Levley			560		600		1,160
148. J. Kenley			4,000				4,000
149. J. W. Keller				1,550			1,550
150. Mrs. Lizzie Kenney			6,800				6,800
151. Robert Kravetz				300			300
152. J. E. Lutterall			190				190
153. Lewis Coal & Supply Co.					200		200
154. Arthur Lawless			2,435	610			3,045
[fol. 89]							
155. Lair, Daviess & Moss				250	3,000		3,250
156. J. S. Lancaster			1,300	90			1,390
157. Arthur Lawless, Admr.			3,500	1,500			5,000
158. W. L. Linville				200			200
159. Seth Luke				50			50
160. Logen & Haggin			6,000		3,000		3,000
161. Mrs. John A. Lewis			1,866				1,866
162. R. Lancaster			365				365
163. Mrs. S. A. Lancaster			7,000				7,000
164. Mrs. Laura Lancaster				150			150
165. Morris & Crenshaw					2,000		2,000
166. S. J. Marshall			10,000				10,000

Assessment of Intangible Property—Continued

Names of taxpayers	Bonds	Stock	Secured notes	Unsecured notes	Accounts	Other intangible	Total assessment
167. Lide Mulberry	.....	.....	1,000	1,000	.....	.....	2,000
168. W. W. McCabe	.....	.....	700	.....	.....	.....	700
169. C. W. Mallory	.....	.....	.....	.....	200	.....	200
170. W. A. Marshall	.....	.....	500	.....	.....	.....	500
171. Geo. McDowell	.....	.....	14,700	.....	.....	.....	14,700
172. Dr. Wm. D. Mason	.....	.....	.....	.....	1,000	.....	1,000
173. W. O. Murphy	.....	.....	175	.....	.....	.....	175
174. E. E. Muddiman	.....	.....	.....	110	90	.....	200
175. W. O. Moss	.....	.....	115	.....	.....	.....	115
176. A. J. Mefford	.....	.....	.....	100	.....	.....	100
[fol. 90]							
177. Logen, Haggin & Cooper	.....	.....	.....	1,000	1,000	.....	2,000
178. M. F. Martin	.....	.....	2,000	.....	.....	.....	2,000
179. L. B. Murphy	.....	.....	20,000	.....	.....	.....	20,000
180. James Mullholland	.....	.....	11,000	.....	.....	.....	11,000
181. W. B. Munson	.....	.....	.....	1,000	200	.....	1,200
182. Annie Muddiman	.....	.....	300	.....	.....	.....	300
183. McKenney & Baumstalk & Co.	.....	.....	.....	13,000	.....	.....	13,000
184. McMeekin & Ashurst	.....	.....	.....	.....	2,000	.....	2,000
185. John M. McMeekin	.....	.....	.....	12,000	.....	.....	12,000
186. F. S. Milners	.....	.....	4,450	500	.....	.....	4,950
187. Dr. Maude D. Moore	.....	.....	1,050	.....	.....	.....	1,050
188. Geo. W. Murphy	.....	.....	6,500	.....	.....	.....	6,500
189. J. T. McFarland	.....	.....	200	.....	.....	.....	200

190. A. R. Murphy	.....	.....	500	.....	.....	.....	500
191. E. P. McKenney	.....	.....	2,000	.....	.....	.....	2,000
192. Joel M. Neale	.....	.....	16,681	.....	.....	.....	15,681
193. J. T. Neal, Agt	.....	.....	.....	1,300	.....	.....	1,300
194. Mrs. Ora H. Nutter	.....	.....	4,250	.....	.....	.....	4,250
195. Jas. Y. Nutter	.....	.....	200	.....	.....	.....	200
196. Lewis R. Nelson	.....	.....	.....	500	2,000	.....	2,500
197. J. C. Nichols	.....	1,590	.....	.....	.....	.....	1,590
198. G. H. Nunnelley Co	.....	.....	.....	40,000	20,000	.....	60,000

[fol. 91]

199. Mary J. Nelson	.....	.....	600	.....	.....	.....	600
200. G. H. Nunnelley	.....	.....	.....	18,000	.....	.....	18,000
201. R. F. Offutt	.....	.....	21,000	.....	.....	.....	21,000
202. Mrs. Sallie Hall Offutt	.....	.....	3,000	.....	.....	.....	3,000
203. R. S. Oldham	.....	.....	700	.....	.....	.....	700
204. M. Viley Offutt & Wife	.....	.....	26,934	690	.....	.....	27,624
205. L. Price	.....	.....	156	.....	.....	.....	156
206. Penn. Lumber & Coal Co	.....	.....	.....	.....	4,000	.....	4,000
207. Peoples Roller Mills Co	.....	.....	.....	.....	2,000	.....	2,000
208. Mrs. Hattie Paterson	.....	.....	6,000	.....	.....	.....	6,000
209. B. H. Penn	.....	.....	9,300	1,400	.....	.....	10,700
210. J. A. Ribble	.....	.....	500	.....	.....	.....	500
211. Penn & Parker	.....	.....	.....	.....	500	.....	500
212. Prathers Bros	.....	.....	.....	.....	1,000	.....	1,000
213. O. H. & E. J. Prather	.....	.....	1,000	.....	.....	.....	1,000
214. M. C. Price	.....	.....	500	.....	.....	.....	500
215. J. S. Penn	.....	.....	.....	2,000	.....	.....	2,000
216. L. H. Paxton	.....	.....	1,000	.....	.....	.....	1,000

Assessment of Intangible Property—Continued

Names of taxpayers	Bonds	Stock	Secured notes	Unsecured notes	Accounts	Other intangible	Total assessment
217. Dr. J. E. Pack	.....	.....	2,000	.....	200	.....	2,200
218. D. L. Penn, Exor	.....	.....	7,000	.....	.....	.....	7,000
219. Nannie L. Perry	.....	1,111	1,500	.....	.....	.....	1,500
[fol. 92]							
220. T. J. Penn	.....	.....	1,025	.....	.....	.....	1,025
221. Mrs. Pearl Plummer	.....	.....	1,680	.....	.....	.....	1,680
222. N. A. Quillen	.....	50	.....	.....	.....	.....	50
223. J. O. Ross	.....	.....	1,450	.....	.....	.....	1,450
224. W. A. Richardson & Bro	.....	.....	.....	1,800	.....	.....	1,800
225. L. H. Reeves	.....	.....	3,000	.....	.....	.....	3,000
226. J. W. Robinson & Bro	.....	.....	12,400	.....	.....	.....	12,400
227. Rouse Bros.	.....	.....	4,500	.....	.....	.....	4,500
228. J. J. Rovan	.....	.....	.....	200	.....	.....	200
229. C. B. Roberts and 230. Jameson	.....	.....	2,750	.....	.....	.....	2,750
231. C. V. Robinson	.....	.....	500	.....	1,500	.....	2,000
232. C. B. Roberts	.....	.....	1,500	.....	.....	.....	1,500
233. L. D. Robey	.....	.....	1,125	.....	.....	.....	1,125
234. J. M. Scarbrough	.....	.....	.....	125	.....	.....	125
235. P. K. Shropshire	.....	.....	3,000	.....	.....	.....	3,000
236. John Sharron	.....	.....	135	95	.....	.....	230
237. A. Stewart	.....	.....	.....	.....	400	.....	400
238. J. W. Sechrest	.....	.....	100	.....	.....	.....	100
239. G. W. Southworth	.....	.....	50	.....	.....	.....	50

240. N. B. & E. B. Stockdell	.....	.....	5,000	.....	.....	.....	5,000
241. L. F. Sinclair	.....	.....	900	.....	.....	.....	900
[fol. 93]							
243. Security Trust Co. Trustee & etc.	.....	.....	13,582	2,780	.....	.....	16,362
244. Arthur W. Steele	.....	.....	3,000	.....	.....	.....	3,000
245. Mrs. Puggie Samuels	.....	.....	500	.....	.....	.....	500
246. Thos. L. Stowers	.....	.....	75	.....	.....	.....	75
247. W. M. Shirley	.....	.....	.....	600	.....	.....	600
248. Mrs. Mal Roberts	.....	4,085	14,300	500	.....	.....	18,885
249. L. Y. Stone	.....	.....	5,200	.....	.....	.....	5,200
250. W. R. Sinford	.....	.....	500	100	.....	.....	600
251. W. R. Sinford, Admr	.....	.....	2,400	.....	.....	.....	2,400
252. A. D. Stephens	.....	.....	2,980	.....	.....	.....	2,980
253. C. D. Smith	.....	.....	.....	.....	300	.....	300
254. T. F. Sheritt	.....	.....	1,500	.....	.....	.....	1,500
255. Noah Thomas	.....	.....	8,000	.....	.....	.....	8,000
256. Cynthia Thomason	480	.....	1,200	.....	.....	.....	1,680
257. G. B. Towles & Bridges	.....	.....	1,950	.....	.....	.....	1,950
258. M. F. Thacker	.....	.....	.....	2,000	.....	.....	2,000
259. Traylor & Abbott	.....	.....	500	.....	.....	.....	500
260. Mrs. Alice W. Thomas	.....	.....	7,000	.....	.....	.....	7,000
261. R. B. Thomas	.....	.....	1,000	.....	.....	.....	1,000
262. J. M. Turner	.....	.....	4,000	.....	.....	.....	4,000
263. J. C. Tarlton	.....	.....	1,700	.....	.....	.....	1,700
[fol. 94]							
264. W. Z. Thomson & Family	181,000	.....	12,461	4,102	.....	.....	197,563

Assessment of Intangible Property—Continued

Names of taxpayers	Bonds	Stock	Secured notes	Unsecured notes	Accounts	Other intangible	Total assessment
265. W. H. Thomas	.....	.....	.....	.....	120	.....	120
266. Thacker Bros.	.....	.....	.....	.....	500	.....	500
267. J. B. Towles	.....	.....	290	.....	.....	.....	290
268. L. P. Perry	.....	.....	2,100	.....	.....	.....	2,100
269. A. B. Traylor	.....	.....	.....	749	.....	200	949
270. J. W. Vance	.....	.....	700	.....	.....	.....	700
271. Miss Lutie Vallendingham	.....	.....	600	.....	.....	.....	600
272. J. M. Wight	.....	.....	1,125	.....	.....	.....	1,125
273. C. P. Wheeler	.....	.....	.....	.....	1,500	.....	1,500
274. W. C. Williams	.....	.....	300	.....	.....	.....	300
275. Boone Wallace	.....	.....	.....	1,200	.....	.....	1,200
276. Waivey Woolums	.....	.....	150	.....	.....	.....	150
277. J. S. Willmott	.....	.....	.....	1,000	.....	.....	1,000
278. T. J. Wells	.....	.....	100	.....	.....	.....	100
279. Wallace Gro. Co.	.....	.....	.....	.....	1,000	.....	1,000
280. C. D. Winters	.....	.....	150	.....	.....	.....	150
281. J. B. Ward	.....	.....	.....	1,500	.....	.....	1,500
282. Mrs. Ruth E. Ware	.....	.....	.....	4,500	.....	.....	4,500
283. Wilson & Nunnelley	.....	.....	.....	.....	500	.....	500
284. Shed Warring	.....	.....	1,245	.....	.....	.....	1,245
285. J. H. Warring	.....	.....	50	.....	.....	.....	50
[fol. 95]							
286. Orkie Wise	.....	.....	.....	100	.....	.....	100
287. J. S. Wilmott	.....	.....	25,833	.....	.....	.....	25,833

288. W. O. Wigginton	.....	.....	4,200	.....	.....	.....	4,200
289. T. H. Wright	.....	.....	2,000	.....	1,500	.....	3,500
290. W. A. Wright	.....	.....	210	.....	.....	.....	210
291. Susie Watson	.....	.....	1,285	.....	.....	.....	1,285
292. Mrs. S. P. Willis	.....	.....	1,700	.....	.....	.....	1,700
293. George Wash	.....	.....	700	.....	.....	.....	700
294. Zeying & Chinn	.....	.....	.....	.....	3,000	.....	3,000
J. C. Zeying	.....	.....	11,000	.....	.....	.....	11,000
296. L. T. Dryden	.....	.....	3,000	.....	.....	.....	3,000
Totals	$188,280	$38,450	$1,060,726	$159,111	$74,760	$18,917	$1,540,244
Percentages	12.44%	2.22%	69.06%	10.51%	4.54%	1.22%	

[fol. 96] STATE OF KENTUCKY,
County of Franklin, set:

I, Ben Marshall, Secretary State Tax Commission do hereby certify that the foregoing nine (9) pages contain a true and accurate list of Tax-payers in Scott County, Kentucky, who listed Intangible property for taxation on July 1st 1921, I further certify that said foregoing (9) pages contain the exact and true amount of said Intangible property listed by the said tax-payers respectively, as of said date, as is shown by the record and files of the office of the State Tax Commission.

Given under my hand as Secretary of State Tax Commission, this September 4th, 1923.

(Signed) Ben Marshall, Secretary State Tax Commission.

MARSHALL EXHIBIT "C"

Exhibit "C" referred to in order No. 5, on page 40 and also referred to in the foregoing deposition of Ben Marshall marked "Marshall Exhibit C" is as follows:

September 17th, 1921.

Georgetown National Bank, Georgetown, Ky.

GENTLEMEN: We find from an inspection of your report on form [fol. 97] A-11-12, under the item of surplus fund you show $79,771.95 and on your report for Assessment of Banks and Trust Companies," $75,000.

Please advise us which amount is correct.

Yours very truly, State Tax Commission. (Signed) J. A. Scott, Chairman.

Assessment of Banks and Trust Companies

Real Estate and Bank Shares 1921

Banks and Trust Companies are requested to fill this blank in duplicate, attach one copy of the same to your report to be sent to the State Tax Commission at Frankfort and one copy to your report required to be sent to your County Tax Commissioner, as of July 1st each year.

Georgetown National Bank, Georgetown, Kentucky

July 1st 1921.

1. Capital Stock (Same as shown on form A 11-12)..	$75,000
2. Surplus (same as shown on form A-11-12).....	75,000
3. Undivided Profits (same as shown on form A-11-12)	.....
4. Real estate charged off the bank's since the organization of the bank (Real estate sold by the bank not — be entered herein).....	.....
Total of lines 1, 2, 3 and 4, showing total assets of the bank.....	150,000
Less Real Estate assessed for taxation (same as on form A-11-12)	10,000
[fol. 98] Bank Shares (is the amount remaining after deducting from total the assessed value of real estate).....	$144,772.95

STATE OF KENTUCKY,
County of Scott, set:

G. T. Hambrick, says that he is an officer of the above named Bank or Trust Company, that he has access to the Books and records of said Bank or Trust Company, and that the statement is true and correct.

(Signed) G. T. Hambrick, V. P. & Cashier (Official Title).

Under the law and the Regulations of the State Tax Commission, all property should be assessed at 100% of its value.

Said report is endorsed on the back thereof as follows:

Filed July 30th, 1921. State Tax Commission. Ora E. Hazelip, Corporation Clerk.

STATE OF KENTUCKY,
County of Franklin, set:

I, Ben Marshall, Secretary State Tax Commission, do hereby certify the foregoing page and the attached sheet, contain a true and accurate copy of the form 13a, which was filed with the State Tax Commission on July 30th, 1921, examined and corrected in this office and returned to the County Tax Commissioner of Scott Co. for his inspection and for entry upon the assessor's book for the year 1921.

[fol. 99] I further certify that the attached sheet contains a true and correct copy of a letter written to the said Georgetown National Bank in relation to the changes made on the said report as appears from the records and files of the said State Tax Commission.

Witness my hand as said Secretary, this September 19th, 1923.

(Signed) Ben Marshall, Secretary State Tax Commission.

STATE OF KENTUCKY,
County of Scott, set:

I, G. T. Hambrick, cashier of the above named corporation do solemnly swear that the above statements are true to the best of my knowledge and belief.

(Signed) G. T. Hambrick.

Subscribed and sworn to before me by G. T. Hambrick on this 20th day of July, 1921. (Signed L. P. Bradley, Notary Public, Scott County, Kentucky. My commission expires January 18th, 1922.

Said report is endorsed on the back as follows:

1921 assessment of Georgetown National Bank, Georgetown, Kentucky. Filed July 30th, 1921. State Tax Commission. Ora E. Hazelip, Corporation Clerk.

STATE OF KENTUCKY,
Franklin County, set:

I, Ben Marshall, Secretary State Tax Commission do hereby certify that the foregoing is a true and complete copy of the report made by the Georgetown National Bank on July 1st 1921, for the purpose of taxation, as appears from the records and files of the said State Tax Commission.

Witness my hand as said Secretary, this September 19, 1923.
(Signed) Ben Marshall, Secretary State Tax Commission.

[fol. 103] The depositions for the plaintiff referred to on page 60 in order No. 13 is as follows:

GEORGETOWN NATIONAL BANK, Plaintiff,

vs.

OLLIE MCFARLAND, & ETC., Defendants

DEPOSITION

The deposition of G. T. Hambrick, taken at the law offices of Bradley and Bradley, in Georgetown, Scott County, Kentucky, on the 28th day of September, 1923, pursuant to agreement of counsel, to be read as evidence in behalf of the plaintiff on the above-styled cause.

There were present Bradley and Bradley and James Bradley, as attorney- for plaintiff, and H. C. Ford, attorney for the Commonwealth.

Direct examination.

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. Give your full name, age and present occupation?

A. George T. Hambrick, forty-nine, Vice-President and Cashier of the Georgetown National Bank.

Q. Were you Vice-President and Cashier of the Georgetown National Bank on July 1st, 1921?

A. Yes, sir.

Q. Have you a statement in your possession showing the amount of real estate mortgage paper held by your bank *bank* at that time, [fol. 104] the amount of collateral paper and the amount of unsecured paper?

A. Yes, sir.

Q. Please give that to the stenographer.

A. Real estate mortgage paper, $170,142.60. Collateral paper, $35,773.82. Unsecured paper, or secured by personal security only, $806,574.00.

Q. Did you prepare a tax assessment for your bank for the various years that you have been cashier?

A. Yes, sir.

Q. Did you prepare the assessment given in for July 1921?

A. Yes, sir.

Q. I show you a copy of statement for that year filed with the deposition of Ben Marshall, and ask you if that is a correct copy of the statement given for that year?

A. It is.

Q. Are these two blanks, which are forms 13-A and Form A 1112, the regular blanks sent out by the State Taxing authorities for banks?

A. Yes sir.

Q. I call your attention to form 13-A, and call your attention to the tine "bank shares" and ask you what was the valuation placed on your bank shares as originall- handed in by you on that form?

A. $119,000.00.

[fol. 105] Q. I notice that there is a red line thru the $119,000.00 and $144,772.00 written above it in pencil, did you or any other agent of the Georgetown National Bank write these figures there?

A. We did not.

Q. Did the Georgetown National Bank receive any notice of any kind from the State Tax Commission, that the valuation placed on your bank shares that year, had been changed from $119,000.00, to $144,772.00?

A. We did not.

Q. Did your bank receive any notice from the assessing officers of Scott County, that that raise had been made on your bank shares?

A. We did not.

Q. After the Board Supervisors met for that year for Scott County, were you given by that Board any notice of any raise on the valuation of your bank shares?

A. We were not.

Q. When was the first time that you, or your bank, was aware that the valuation placed on your bank shares in this form, had been raised from $119,000.00 to $144,772.00?

A. When we went to pay our taxes.

Q. How long have you been in the banking business in Scott County, Kentucky?

A. About twenty-five years.

[fol. 106] Q. How long have you been Cashier of the Georgetown National Bank?

A. About Fourteen years.

Q. Previous to that time did you hold any other position with the same bank?

A. Yes sir.

Q. What was that?

A. Assistant Cashier.

Q. Do you consider that you are familiar with the general circulation of money in your county, the amount of money usually held by individuals in the county, and general loan condition in the county?

A. I think I am.

Q. The list of notes held by individuals in Scott County as of the assessing date, July 1st, 1921, unsecured, show a total of $159,000.00 of such as shown by the list filed with the deposition of Ben Marshall, from your knowledge of conditions in Scott County, and from your knowledge of notes held by individuals unsecured, what percentage in your opinion, does this $159,000.00 represent of the unsecured notes held by individuals in Scott County?

A. I would say thirty-five per cent.

Q. In your opinion then, there is some sixty-five to seventy per cent of unsecured notes held by individuals in Scott County in addi-

[fol. 107] tion to those given in for taxation as shown by this list?

A. Yes sir.

Q. It is charged in the petition that notes held by individuals, both secured and unsecured, bonds held by individuals, and other forms of credit held by them, come into competition with your bank shares, and with the conduct of your banking business. Will you state just how in your opinion, and to what extent such loans, and what securities held by individuals do compete with your bank?

A. Banks make money, for its share holders in two ways. By loans to individuals, firms and corporation, and by investing its funds in bonds and other securities. Bank loan on real estate mortgages, loan secured by collateral, and loans secured by personal securities. Banks invest in Government, Railroad, Industrial Bonds, State, County and Municipal bonds, State warrants, county warrants, and city warrants. Now the individual takes up a large per cent of the high rate paper, thus forcing banks to keep their surplus funds on deposit with their city correspondents, on which they receive interest at the rate of two and a half to three per cent. He forces them to employ their funds in investment of lower rate securities, such as Government bonds and Treasury certificates. Individuals loaning money operate in two or three ways against the interest

[fol. 108] of banks. Not only taking investments from the banks, but withdrawn funds on deposit, thereby lessening the earning powers of the bank.

When an individual loans his money, the borrower feels no obligation to do business with any particular bank, whereas when a bank makes a loan it forms a tie between the individual and the loaning bank, thereby increasing the bank's business. I have known cases where individuals have made loans at a smaller rate of interest than was being charged by the banks, and borrowers would get their money from individuals and pay the bank and in many instances this very money was withdrawn from the bank whose loan was paid off.

The individual lender has no operating expenses, whereas the overhead of banks amount to a very large sum. For instance in the case of the Georgetown National Bank, the expenses of this bank, irrespective of taxes, and interest paid on deposits, amounts to at least twenty per cent of the per value of the capital stock, and the taxes amount to about seven per cent of the par value of the capital stock.

A. In your statement in answer to the last question you said that one phase of competition was that by the individual lender absorbing the local high rate paper, you were forced to keep money on deposit in your correspondents' bank at a low rate, and forced to invest in other low rate securities such as Government bonds, etc., illustrating how much money you did have out in this way, please give us the amount of investment in bonds, and the amount of deposits in correspondent's bank, as an average.

[fol. 109] A. I would say two to three hundred thousand dollars.

Q. What was the customary and usual loan rate?

A. Six per cent.

Q. What is the customary and usual rate of local securities such as local municipal bond issue, local school bond issue, local street bond issue etc.?

A. Five and a half to six per cent on the amount you actually have to pay for them.

Q. Does your bank endeavor, and in such endeavor come in competition with individuals in buying such local securities?

A. Yes, sir.

Q. The statement filed by Mr. Marshall shows that there are in Scott County, a total of $188,280.00 in bonds held by individuals, $1,060,726.00 in secured notes held by individuals and as heretofore stated, $159,111.00 in unsecured notes held by individuals, all in Scott County. Would you say that the competition made as against your bank by such individual holdings was relatively large or small in amount?

A. I would say very large. The amount as shown by the records is a great deal more than the loans of any one bank in the county, and in my opinion, so far as unsecured notes are concerned, the record does not show as given in for taxation, more than thirty to thirty-five per cent of such notes actually held in the county.

Q. With reference to the other banks in the county, state how

your bank compares in regard to amount of loans and discounts, outstanding, and the general size of your bank?

A. Our loans usually run higher than any of the other banks in the county, our capital and surplus are about an average as compared with the other four banks.

Q. How many banks are there in the county?

[fol. 110] A. Five.

Q. Name them please?

A. The First National Bank, Farmers Bank and Trust Company, Georgetown National Bank, Farmers Deposit Bank of Sadieville, and the Citizens bank of Stamping Ground.

Q. All of them are state banks except the Georgetown National Bank and the First National Bank, I take it?

A. Yes, sir.

Q. In the suit of the Georgetown National Bank, you are seeking to enjoin the col-ection of certain tax bills which have been presented to your bank for payment by the Sheriff of Scott County, for the years, 1919, 1920, and 1921, which bills are marked "corrected tax bills." When were these bills first presented to you?

A. Just before the suit was brought to enjoin the collection.

Q. Prior to that time had regular tax bills from Scott County and from the State of Kentucky, been presented to your bank for each of those taxing years, 1919, 1920 and 1921?

A. Yes sir.

Q. When such bill was persented to you by the Sheriff for each of those years, 1919, 1920 and 1921, state whether or not, it was paid by the bank?

A. It was.

Q. Have you your tax receipts for those years showing payment?

A. Yes sir.

Q. I wish you would please file as a part of this suit?

A. Yes, sir.

Q. Are you familiar with the tax rate during the years 1919, 1920 and 1921 and 1922, on such securities in the hands of individuals as stock, bonds secured notes and unsecured notes, accounts [fol. 111] etc?

A. Yes, sir.

Q. What was that rate?

A. Forty cents on the one hundred dollars.

Q. You have stated that the rate on such property as heretofore enumerated, in the hands of individuals, was forty cents on the one hundred dollars, was this the total tax of every kind, city and county and state that such proper- was subjected to?

A. It was.

Q. Now taking the taxing year 1919, what was the total, state and county taxes assessed against your bank shares and sought to be collected against your shares for that year?

A. $1.10 per one hundred dollars.

Q. For the year 1920?

A. $1.10 per one hundred dollars.

Q. For the year 1921?
A. $1.05 per one hundred dollars.
Q. 1922?
A. $1.05 per one hundred dollars.
Q. Referring again to those so called "corrected tax bills" for the years 1919, 1920 and 1921, at what rate for these years, these tax bills are made out against your shares?
A. $1.10 for 1919; $1.10 for 1920; $1.05 for 1921.
Q. And in the new bill you had for 1922 herein enjoined, the rate if $1.05?
A. $1.05.
Q. For these same years 1919, 1920, 1921 and 1922, were not your bank shares subjected to, and if you did not pay, city taxes in addition to the taxes sought to be collected against you?
[fol. 112] A. Yes sir, we did.
Q. At what rate was that tax for those various years?
A. The lowest rate during any of those years was $1.05 and the highest $1.05.
Q. I believe your bank paid that municipal tax in 1920 and 1921, and is seeking to enjoin it in 1922?
A. Yes, sir.

(Signed) George T. Hambirck.

[fol. 113] Witness GEORGE T. HAMBRICK, being recalled for cross-examination, testifies as follows:

Cross-examination.

By H. C. Ford, attorney for defendants:

Q. On page 2 of your direct examination, you said that the amount of unsecured paper, or secured by personal security only, held by your bank of July 1st, 1921, was $806,574.00 and that the amount of real estate mortgage paper was $170.142.60, I will ask you to state in which of those divisions you included paper secured by vendors' liens endorsed to you by the original payee?
A. We classify that under personal surety paper, and it is included in the item of $806,574.00.
Q. In your direct examination you said that money in the hands of individuals comes in competition with the bank by reason of that fact that the individual lender absorbs local high rate paper. I will ask you to designate what you consider local high rate paper that you refer to in that answer?
A. Notes with good personal security, notes secured by collateral such as Government bonds, and other good securities.
Q. Do you consider land notes secured by vendors' liens in that class that you refer to as local high rate paper?
A. Yes, sir.
Q. You also refer to the fact that the individual lender comes into material competition with you by reason of his absorbing local

municipal bond issue, local school bond issue, and paper of the [fol. 114] character. I will ask you to state what local municipal bond issue were absorbed by any individual money lenders in the year 1921?

A. I do not recall any in that particular year, but there have been times when the public has, or when individuals have bought all locals securities.

Q. I will ask you to state when any local municipal bond issues were to your knowledge, purchased by local money lenders, and give every instance of that case in your knowledge?

A. There were same electric light and water bonds, one hundred thousand dollars, they were bid on here by a number of folks but were never purchased by individuals. We bid on them as a bank, one hundred thousand dollar issue was offered, but were never issued. Some suit was brought, and the bonds were never issued. I don't remember the name—Georgetown Water & Light Bonds I suppose. They were bid on but were not purchased by individuals, and by our bank. They were bid on by individuals and by the bank, but for some reason the bonds were withdrawn—were not sold.

Q. I will ask you if it is not true as to these bonds that neither the bank nor individual buyers were the highest bidders, and the bonds were awarded to the highest bidder which was a Chicago concern?

A. I do not remember.

Q. I will ask you if it was not the Harris Trust Company of Chicago the buyer in that case?

A. I know that they purchased school bonds——

Q. Do you remember what year that was in?

A. No sir.

Q. Are you able to say now that local buyers bid more for these [fol. 115] bonds that the bank did?

A. I don't remember the amounts of the various bids.

Q. So you are not able to say that competition of local buyers had anything to do with that sale whatever are you?

A. Yes sir, I think they did.

Q. In what way did the competition of local buyers affect the bank in that case?

A. We had notice that there would be a number of individuals to bid on the bonds, had we not heard that we probably would have made a lower bid for the bank.

Q. Did you not also understand that one-resident bond buyers from the large cities, would also bid on these bonds, and as a matter of fact were they not the buyers who out-bid you?

A. I suppose they were.

Q. In that case the bonds were not awarded to any local buyers, and consequently had no effect one way or the other upon the business of the bank?

A. Yes, sir.

Q. Is that the only case that you have in mind where local buyers participated in any municipal bond issue?

A. I believe there were bids on the sewer bonds by individuals.

Q. Do you know that to be a fact?
A. I would not state positively.
Q. Did your bank bid on the sewer bonds?
A. No sir.
Q. Then even if there were individuals bidding, that did not come into competition with your bank in that case?
A. I guess not.
[fol. 116] Q. These two bonds issues that you refer to took place a number of years ago?
A. Yes, sir.
Q. They were the only two that you designate now where there were any local municipal bond issues in the market?
A. That's all I recall at present.
Q. Was not there an issue of school bonds issued by the municipality last year under competitive bidding?
A. Yes sir.
Q. Did your bank bid on them?
A. Was it last year?
Q. Last year or the year before?
A. No sir, we did not.
Q. Do you know whether any of the local banks bid on them or not?
A. I don't know.
Q. Do you know who purchased them?
A. I think the Harris Trust & Saving Bank of Chicago.
Q. A large part of the secured paper in the local market, is paper secured by vendors' liens, is it not, running from one to an average of three and sometimes five years?
A. Yes sir.
Q. The banks do not seek loans upon that long term as a rule do they prefer short term paper, is that true or not?
A. Yes sir, banks rather prefer shorter term paper.
Q. Have you at any time been unable to secure such of these vendors lien paper that you wanted by reason of the individual competitor preventing you from getting it, if so designate what ones?
[fol. 117] A. I do not remember just when, but I know there have been a number of good loans which the bank would have liked to have had, which individuals had taken up.
Q. Can you designate any such occasion?
A. No sir, I do not know that I can right now.
Q. I will ask you if it is not true that on numerous occasions the bank has not voluntarily assigned to individuals, transferred to individuals, and to other local concerns, such as the Trustees of the Kentucky Baptist Education Society paper of this kind in order to relieve the bank's money from that character of loans?
A. It has been done in some cases, but usually at the solicitation of the individuals, or in the specific case of the Trustees of the Kentucky Baptist Education Society.
Q. Then such transfers have been in co-operation with the bank and with the bank's full consent and willingness, rather than in competition with the bank?

A. It is certainly in the nature of competition in these cases where we have assigned and transferred loans to individuals, or to the College, it was done for the accommodation of these individuals?

Q. You mean to say that the bank would so co-operate with its competitors to its own disadvantage by turning over to its active competitors, loans which it would be a disadvantage to the bank to surrender?

A. It is the business of the bank to accommodate its customers the people to whom these notes are assigned are customers of our bank, and we feel that as an accommodation to them when we are called upon for a note which they would like to invest their money in, we feel that we are in a way duty bound to comply with their request. [fol. 118] Q. Then you feel that in transferring notes and securities to customers, it is more advantage to the bank to accommodate a customer in providing them with investments, than it is for the bank to hold these loans for their own benefit?

A. In many cases it has proven so.

Q. Then banks profit by such transactions rather than reap a disadvantage from it?

A. I will say in this connection that the best customers that we have, have been gained by accommodations of this sort, and their account is worth more to the institution than the amount of interest which we shall get on the notes transferred over to them, consequently the banks consider it the best policy to transfer their securities at times to individual lenders in order to get the benefit of their deposits, and their good will in the banking business.

Q. That is sometimes the case?

A. Yes sir.

Q. These transactions take place as a rule when there is ample demand for the bank to lend its money, and you can find substantially as good investment elsewhere, is that not——

A. Not necessarily.

Q. Do you mean to say that you would surrender good investments for the benefit of a customer, or make a practice of it when you had surplus money on hand that you could not loan on substantially as good securities, and would be without an investment for it——

A. We do not make a practice of this as I stated, but it has been done in a few cases.

Q. Has that practice been in vogue to the extent of largely or materially depriving the bank of any substantial part of its loans [fol. 119] which are considered high class?

A. A great many of these loans have been taken by individuals.

Q. Have you by that been prevented to any material extent from investing your funds at a lawful rate of interest?

A. There have been times when we have been forced to keep large sums with our reserve agents at a lower rate of interest.

Q. State whether or not by reason of your transferring of loans of the bank to individuals to accommodate them, there has ever been any time on that account specifically, the bank has been deprived of a means of investing their funds?

A. No, sir.

Q. You say that there have been times when the bank has had a large surplus of money which you had to deposit with your correspondents. At what time of the year as a rule does that take place?

A. From January to April I should say.

Q. That is the time of the year where there are large cash returns coming into this community on account of the sales of tobacco, is that not true?

A. Yes, sir.

Q. And as a rule that cash surplus is needed by the bank for the purposes of carrying customers from April on along the rest of the year, and you deposit that in your correspondents banks for the purpose of having it available on short notice when the summer demand arises in the banking business, is that true or not?

A. Yes sir, because we are not able to loan it at that time.

Q. Now that surplus which comes in between January and April is as a rule taken up and can be taken up by demands of the bank's [fol. 120] customers from April on to the remainder of the year, is that true?

A. Usually is, yes sir.

Q. And as a rule in addition to that surplus which you accumulate from April to January, the banks and your bank in particular has to rediscount and borrow money in other ways from April throughout the remainder of the year is that true or not?

A. We do, but I will add that the bank considers it good business to borrow and loan, since we usually borrow at from 1¼ to 1½ per cent less than they loan their funds for.

Q. Then according to your own statement, practically the only time of the year when the bank's demands do not equal the bank's surplus, is from April to January?

A. We have a larger surplus at that time.

Q. What interest do you get on surplus placed on deposit with your correspondent banks?

A. An average of about two and one-half per cent.

Q. Why is it that you place that surplus on deposit with correspondent banks at the rate of 2½ per cent rather than invest it in Government bonds, or other securities, that will yield from four to four and one-half per cent. Is it not for the purpose of having it available on call on short notice when you need it?

A. Yes, sir, to some extent that is true.

Q. Then it would not be and has not been the policy of the bank to seek for an investment of that surplus arising from April to Jan- [fol. 121] uary, temporary surplus, it has not been the policy of the bank to seek vendor's lien, or any other paper running for longer terms, is that true, by reason of the fact if you invest that surplus in that kind of paper it would not be available for you when you need it?

A. We do not seek long investments, but at the same time we are perfectly willing to make loans when we have a demand.

Q. Would you as a banker, invest that surplus which arises in

your business January and April, in land notes running from one to three years, if they were available during that time, rather than put that money on deposit, and have it for your short time loans the remainder of the year, to accommodate your customers?

A. No sir, I do not think it would be good business to do it.

Q. It therefore follows that the surplus that you have referred to as the surplus which is not available under good banking investment for investment in local high rate vendor's lien securities, but is a surplus that the bank must hold ready to meet business demands of its customers arising between April and the remainder of the year?

A. The bank does not necessarily have to hold this as a reserve to meet the demands of the rest of the year, if the bank had a demand for this surplus at this particular time from parties whose paper was well secured, they would certainly not hesitate to loan it, for under the present federal reserve system, banks can loan their funds closer than in the old days, and at the same time make money by so doing when the difference in the rate of money charged by the Federal Reserve Bank, and the rate paid to the lending bank is considerd.

Q. That may be true provided you could loan it on short term [fol. 122] paper, but you have just stated that you would not consider it good banking business to loan that surplus on long term vendor's paper, if you did it would necessitate rediscounting that paper at a loss to have the funds available at the time the bank needed it, is that or not true?

A. No sir, nor rediscounting at a loss——

Q. I mean rediscounting it so that you would not get the entire amount rather than a part of it. By having to rediscount paper to get funds to loan customers, you are simply borrowing money in order to have money to loan, are you not?

A. Exactly and borrowing it at about 4¼% and lending at 6%.

Q. With a profit to you of only about 1½% while if you had not made that loan so as to have to borrow you would have been getting a profit on your funds of six per cent, is that true?

A. No sir.

Q. You mean you can borrow money at 4½% by rediscounting your paper and realize more profit than you can using your own money on short time loans?

A. I did not propose to say that; I did not say that sir.

Q. To come down to the facts of this case, is it not true that this surplus that arises between April and January, you do not seek to loan on long time paper because it would not be good banking business?

A. Not to loan——

Q. And you would not want to loan it?

A. On three or five years, no sir. But I would like to add that the loans in the hands of individuals are not all long time loans running from three to five years, but a great many loans from six to twelve [fol. 123] months are held by individuals.

Q. But a great part of vendors paper does run, one, two and three years and sometimes longer, does it not?

A. Yes sir.

A. And that constitutes a large part of the secured paper referred to in the assessment held in banks, a majority of it?

A. No sir, not a majority of it.

Q. Have you examined the paper to see what part is long term vendors paper, and what is not?

A. Do you mean of my own statement.

Q. No, the statement of Ben Marshall.

A. No sir, I am only basing it on figures of my own bank.

Q. During that period when your surplus arises between April and January, there is not as much demand for lending in this community, that is short term paper especially, as there is later in the year by reason of the fact that the farmers, or rather most of them have plenty of money, is that true?

A. Yes, sir.

Q. There are a very few loans made by either individuals or banks during that period, except such loans as arise about the first of March on vendors lien paper, is that true?

A. Yes, sir, that is the largest demand comes around the first of March.

Q. I will ask you to state from your records, if you can, how much money your bank borrowed during the year 1921, to meet the demands of the lending market here, and your customers?

A. About $225,000.00.

[fol. 124] Q. At what time of that year did you have that much money borrowed?

A. I think in that particular year, it was January. This was the year that the tobacco crop was unsold at this time which accounts for our heavy borrowing.

Q. How much money did you have borrowed on the first of July, 1921?

A. $54,485.00.

Q. What is the limit if any of amount that your bank can borrow for this purpose under the law?

A. Direct or rediscount.

Q. In either way, borrowing direct and re-discount and paper in both ways?

A. There is no limit on the re-discount as long as you have good paper.

Q. How much can you borrow direct?

A. $75,000.00.

Q. The bank had had to borrow money practically every year at certain periods of the year to meet the demands of the business, is that true?

A. Yes sir, we have for a number of years?

Q. Then notwithstanding this enormous competition of individual owners which you have testified to, the bank has thruout every year, found satisfactory loans to the extent of their resources, and often in excess of their resources which necessi-ated borrowing and re-discounting to meet the demands?

A. Yes, sir, I will add that banks feel freer to make loans under [fol. 125] the present system than they did when it was hard to borrow money.

Redirect examination.

By J. Craig Bradley, Attorney for plaintiff:

Q. You were asked about your borrowing in 1921, what amount of surplus as indicated by the amounts you had on deposit in your correspondent bank, and the amount you had invested in Government securities did you have in 1921?

A. About $200,000.00.

Q. What was the average amount that you had borrowed that year?

A. During the year?

Q. Yes.

A. I should say seventy-five thousand dollars ($75,000.00).

Q. You state that this big surplus running from January to April, or May, you were asked if it was not necessary to keep this on hand. I call your attention to the question that he *sa*ked in regard to whether you could make more money by rediscounting than you could by loaning your own money, now with reference to these various questions, I will put this one to you. What per cent do you get on your funds in case you left them during all that time in your correspondent banks?

A. Two and a half.

Q. Now in case you lend them on mortgage paper, or individual [fol. 126] notes, or any paper that you can re-discount, what is your rate of interest?

A. Six per cent.

Q. Now supposing these funds are on deposit in your correspondent banks, when you drew them out to meet emergency, you can loan them at six per cent, isn't that true?

A. Yes sir.

Q. And in case this six per cent paper has been taken up by individuals you have to leave the money in your correspondent banks in case there is no demand for this six per cent paper, is this true or not?

A. Yes sir.

Q. You were asked the question as to accom-odation given your customers, I will ask you to explain how if it is a fact, that it affects your bank in regard to lowering your resources and also lowers your amount of loans you are able to *am*ke?

A. It undoubtedly acts both ways. When a note is transferred to a customer, this money is withdrawn from deposit in bank, besides the bank loses the interest on the note from that date.

Q. On the other hand if you did not make the loan to him, he would withdraw the money and get the loan somewhere else?

A. Very likely—has been done ofter.

Q. You were asked if during the times that you had this surplus on hand, it was not always the period when farmers and the borrowing public generally, had more money on hand, I will ask you if it is not also true that competition during that period is not much

[fol. 127] greater on account of the fact that the individual investor has more money to invest in what loans are available?

A. I think that is true.

Q. You were asked in regard to the local bond issues when bonds were originally put out, and asked to give individual instances, I will ask you if your statement in regard to this competition is not based simply on the figures as shown by the assessment returns, that a large amount of notes are held by individuals and a large amount of bonds are held by individuals, but in spite of the fact that you may not know of indiv-ual instances when you missed these particular loans, you have missed them from the fact that they are owned by individuals, is that correct?

A. Yes sir.

Q. In other words, you mean by reason of the fact that these bonds, notes, etc., are held by individuals, to that extent the poser of your bank to invest in that type of securities is lessened?

A. Yes sir.

Q. You were asked to enumerate various kinds of what you call local high rate paper, you named individual security, and then simply personal notes without security and collateral notes, then you were asked if you did not include vendors' liens, you said you did, I will ask you if that does not include mortgage notes on real estate too?

A. Yes sir.

Q. Is it not a fact that your bank as a National Bank, would prefer vendors' lien notes, to mortgage notes on account of the fact that it [fol. 128] is two named paper, and you consider it personal security?

A. Yes sir.

Q. On the other hand you were asked as to the percentage of vendors' lien as compared with straight mortgage in your bank, do you not find that mortgage paper far exceeds the amount of vendors' lien paper you are called upon to handle.

A. Yes sir, it does.

Q. In spite of the fact that you would prefer the other paper if you could get hold of it?

A. Yes sir.

Q. You were asked as to the length of time, paper was mentioned as three to five years, I will ask you what percentage of paper is ever presented to your bank that is over three years in time of payment?

A. A very, very small per cent.

Q. Is it even as much as one per cent in your opinion, of the paper you handle?

A. I should say not.

Q. Is it not a fact that a great majority of the paper presented, I do not mean such as you actually handle, but a great majority presented to you for handling, is not six, twelve, eighteen and twenty-four months?

A. Yes sir, that is about the usual length of time.

Q. Is not a great majority of it six and twelve months paper?
A. Yes sir.
Q. You were asked in regard to the amount of borrowing, and you stated that in your opinion it was good banking and was the [fol. 129] policy followed by your bank, to loan up to your full capacity at any time that you had the surplus, and then re-discount to again loan at six per cent. Does your bank follow that as a policy of the bank?
A. Yes sir.
Q. The question was put to you as if you sold these notes that you spoke of as re-discount, I will ask you if it is not a fact that you simply put these notes up as collateral, that you still get six per cent on these notes as collarteral, borrow money on them at 4½ per cent, and then make six per cent again on the money that you borrow and re-loan?
A. That's the way it operates, yes sir.
Q. So to the extent that you do re-discount and borrow you simply make an addition 1½ per cent on whatever amount you borrow in addition to the six per cent you are getting on your collateral if you put it up?
A. Exactly.

Recross-examination.

By H. Church Ford, attorney for defendants:

Q. I understood you to say that the limit of money you could borrow was $75,000.00?
A. Yes sir borrow direct.
Q. And during the year 1921 your average borrowing was $75,000.00——
A. We distinguished between borrowing and re-discounting there is no limit to our re-discounting.
[fol. 130] Q. During the year 1921, your average was $75,000.00?
A. Yes sir.
Q. As we have taken 1921 as a typical year and the assessment list of property owned by individuals during 1921 has been filed as being typical of the other years, I will ask you to state whether or not you know that any of the liens shown to be held by individuals which are unsecured notes totaling $159,111.00 was paper under twelve months' term. Do you know anything about these unsecured papers held by individuals?
A. I do not know the time, but as a rule——
Q. I am asking as to this specifically. Are you able to state that any of this unsecured paper assessed here as of July 1st, 1921, is paper that would be desirable to the bank, and that the bank would have loaned, if so point out what it was?
A. Judging from the character of men who made these loans——
Q. You can't tell who made them?
A. I mean who made the loans, the men who furnished the money, being good conservative business men, I would say these loans would be desirable bank loans.

Q. That would depend entirely on whether they were maturing within a reasonable time, and whether they bore a reasonable amount of interest, and whether made to persons who are good, would it not?

A. All these things would have to be considered, but as a rule that class of loans is made for not more than twelve months.

[fol. 131] Q. You absolutely have no knowledge of thes loans listed here for taxation as to terms, amount of interest, and whose name is on the paper?

A. I have—some of them.

Q. I will ask you to tell which you know——

A. B. F. Bridges, three thousand dollars ($3,000.00)——

Q. State whose names are on the paper, the terms of the paper and what interest they bear, and when the loan was made if you know?

A. I can't tell when it was made, Watson to Bridges—I do not know when it was made, or for how long, it would be hard to designate in detail. I will not attempt to give a list of these in detail. I thought this was a list of the makers of the notes, but find it is a list of the holdres only, and I cannot give you any information.

Q. Therefore you cannot testify under oath as to the character, terms, maturity date, or any of the features which determine the desirability of any of these notes listed in Mr. Marshall's report of the notes taxed as being in the hands of individuals?

A. No sir.

Q. Consequently you cannot say now positively, that any of these notes are such character of notes and securities as the bank would seek to loan their money on by reason of not knowing definitely the terms, makers, or any other facts with reference to these notes?

[fol. 132] A. I only have good reasons for believing that these notes are——

Q. I don't want your belief.

A. I have seen a number of these notes which have been given to individuals and as a rule these notes are given for a period of twelve months or less.

Q. I did not ask you about notes of individuals that you have seen, I am asking you specifically about the unsecured paper that is listed as of July 1st, 1921, in the hands of individuals by reason of the fact that that year by agreement of the parties was taken as typical of all these years. I ask you if you know the names of the makers, terms of the note, and the amount of interest they bear on any of these notes?

A. I do not.

Q. Consequently before you can state whether or not they would be desirable bank paper, you would have to know these facts, would you not?

A. I would.

Q. And not knowing these facts you are unable to say that any of them is desirable banking paper as a positive statement of fact?

A. Judging from the business ability of the lenders on the list, I have before me, I think any bank would do well to — up any

of the notes held by individuals on their judgment as to the character of the loans.

[fol. 133] Q. You continually evade answering my question. You have stated that your bank will not take paper until you can form some judgment as to its desirability based upon your knowledge of the men making them, the time of maturity, and the amount of interest it is to bear——

A. That is true.

Q. You have stated that you do not know these facts with reference to any of these notes listed in this assessment blank——

A. Yes sir.

Q. Without that knowledge you cannot state positively that they are bankable paper, can you——

Objection made by J. C. Bradley, plaintiff's attorney:

Mr. Bradley: The gentleman has said that he did not know as to any individual note, but that his knowledge of the notes loaned is such that he knows that they would be, a great majority of them would be valuable for bank paper, and he has repeatedly answered it that way?

Q. I will ask you to examine the securities listed with Mr. Marshall's statement, and point out if any, any of these securities to your knowledge, which could have been secured by the bank, at the time you had a surplus on hand between January and April 1921, had it not been for the individual owners having them?

Objection made by Mr. J. C. Bradley.

[fol. 134] Mr. Bradley: It is absolutely impossible for the gentleman to pick out individual instances and I object to testimony seeking to confine him to individual notes, and individual instances. It is simply a question of general compe-tion as indicated by the amount of notes held by the bank, and the amount of notes held by individuals.

The witness is not attempting to say that he has any particular knowledge of any indiv-ual note, and it would be impossible for him to make a definite statement with reference to that.

Q. Your examination in chief includes the statement that individuals buy bonds, thus depriving the banks of procuring these bonds, I will ask you if it is not true that at all times during 1921, the general bond market was such that you could buy bonds at any time, Government bonds, good securities of various kinds, industrial securities, without difficulity if you had desired them?

A. Yes sir, there are always plenty of bonds on the market every year.

Q. In fact there are a great many good industrial securities available that bear a higher rate of interest than six per cent?

A. Not so many that would be considered absolutely good for a bank to invest in.

Q. I will ask you to state if any, what bonds or what character of

bonds the bank was prevented from buying by reason of any individuals buying these bonds in competition with the bank?

[fol. 135] A. I do — recall any special kind of bonds, but the fact that these bonds were taken up by individuals, the money was withdrawn from the bank and placed in these bonds. Whereas had it not been for the bonds the money would have remained on deposit in the bank.

Q. Then you are not able to state that any single bond or bonds listed by individuals in this assessment list, were bonds that were desirable bank investments?

A. I cannot say whether they were or not.

Q. I will ask you if it is not true that practically every sale of land that takes place in this country, gives rise to vendor's lien notes, almost universally running from one, two and three years if not longer?

A. Yes sir, that is usually the case, that is the average time.

Q. Are you able to rediscount with the Federal Bank, paper running three years, or do you have to borrow money on that direct?

A. Borrow it direct.

Q. Consequently that would be, paper of that kind would come within your limitation of seventy-five hundred dollars?

A. Yes sir.

Q. Your rediscount with the Federal Bank is limited to what character of paper, maturing within what time?

A. Commercial paper maturing within ninety days, that was the ruling at that time, agriculture and live stock-paper maturing [fol. 136] within six, that also was the ruling at that time. All of these rediscounts have been changed to longer period since 1921.

Q. What difference has been made, what longer periods have been given?

A. Four months for commercial paper, nine months for agriculture and live stock paper.

Q. Then if I understand you your rediscounts with the Federal Bank is limited to such paper as matures within nine months then and now?

A. Yes sir, but the Federal Reserve grants renewals on these notes.

Redirect examination.

By Mr. J. Craig Bradley, plaintiff's attorney:

Q. On that last question as to maturity that at times enables you to use twelve months paper, provided the paper you take up matures within nine months?

A. It is figured on the time that the paper has to run from the date of the rediscount, and not on the time that the paper had originally to run.

Q. You were asked as to your knowledge as to which of these individual notes, notes held by individuals, I will ask you if during all the period covered by these suits, of four years, it had not been your

custom to frequently attend to individual transactions between borrowers of your bank, loans made by individuals, that you actually saw the notes?

[fol. 137] A. I have a great many of them.

Q. Altho you may not be able to give individual instances, I will ask you if from your knowledge generally of the class of loans held by individuals such knowledge as you have obtained, from notes that have passed thro- your hands, as to what class of paper these individual notes are, whether they are bankable paper or not?

A. They are usually bankable paper.

Q. You were asked if any of these bonds were bankable bonds, you have already stated that the general competition from this source was by drawing money out of your bank, but on the other hand I will ask you if in the case of individual depositors, is it not your custom in a great majority of instances to advise them as to what bonds to take—as to what bonds to buy, and if you do not in a great majority, of cases actually invest in the bonds for them?

A. Ye- sir, we very often do that.

Q. These bonds that you do advise, are the*h* such bonds as the bank could carry?

A. Ye- sir.

Q. And high grade bonds?

A. Yes sir.

Question by Mr. H. C. Ford:

Q. If the bank can buy these bonds for individuals they could buy them for themselves if they wanted to?

A. Yes sir.

[fol. 138] Question by Mr. J. B. Finnell, attorney for defendants:

Q. You have stated that from your general knowledge of the names of those who made the loans in the year 1921, and from the fact that in some cases you had some connection with the loan, possibly made at your bank, that you consider a large number of these loans made in that way desirable banking loans, is that correct?

A. With the exception of the fact that the lender was assisted by the bank in making them, the rest of the statement is al- right.

Q. Do you know of any loans contained in that list, that were made during the year 1921, or have you any approximate idea of the amount of loans made at your bank, bank officials assisting in the year 1921?

A. No sir.

Q. Therefore what you have testified to in regard to their desirability by the bank, you have arrived at thru your experience along that line for a number of years, not confined to the year 1921?

A. Ye- sir, for a number of years including 1921.

Q. I will ask you if it is true that your bank has during the year 1921, or has ever, or would now take any one of these unsecured notes simply and wholly for the reason that that note had been

loaned by any one certain individual, that the money for that note had been loaned by any one certain individual?
[fol. 139] A. No sir.

(Signed) Geo. T. Hambrick.

Also the deposition of W. A. HINTON, taken at the same time and place and for the same purpose.

Witness, after being first duly sworn according to law, deposes and says as follows:

Direct examination.

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. Give your full name, age and occupation?
A. W. A. Hinton, age fifty-one, Cashier Farmers Deposit Bank of Sadieville.
Q. Where is your bank located?
A. Sadieville, Scott County, Kentucky.
Q. Is yours the only bank in that town?
A. Yes sir.
Q. Have you a statement of your bank as of July 1st, 1921.
A. I have of June 30th. Ye- sir.
Q. I wish you would file that with your deposition?
A. Yes sir.
Q. I notice that your total loans and discounts are $423,402.14, will you state now just how these loans are totaled, how much secured by real estate mortgage, and how much unsecured, except by personal security?
[fol. 140] A. Secured by real estate mortgage $220,020.00. Secured by personal securities, and other securities, $203,382.14.
Q. How long have you been engaged in the banking business in Scott County?
A. Since 1901.
Q. From your knowledge of bank conditions, and general money conditions in your neighborhood, do you consider that the individual investor in secured notes and unsecured notes, bonds etc., comes into competition with your bank shares, and with the conduct of the business of your bank in that community?
A. Yes sir.
Q. Do you consider that that competition on the part of individuals in your community is relatively large or small in amount?
A. Large.
Q. From your knowledge of conditions there are investments of this kind made by individuals, would you say that this competition was substantially the same as if there were another bank operating in your community?
A. Yes sir, almost the same.

Signature waived.

[fol. 141] Also the deposition of W. G. ABBOTT, taken at the same time and place and for the same purpose.

Witness, after being first duly sworn according to law, deposes and says as follows:

Direct examination

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. Give your full name, age and occupation, please?

A. William G. Abbott, Cashier, First National Bank, Georgetown, Kentucky.

Q. How long have you been cashier of the First National Bank?

A. Thirty-four years.

Q. Have you a statement of your bank as of date July 1st 1921?

A. Yes sir.

Q. I will ask you to file it with your deposition?

A. Yes sir.

Q. Is it not true that on one of the forms sent you by the State Tax Commission for assessment purposes for each year you are required to put a valuation on your bank shares?

A. Yes sir we are.

Q. Did you fill out such a form for the assessing date, July 1st, 1921?

A. I did.

Q. Do you recall the valuation placed on your bank shares in that report?

A. Yes sir, it was eighty-five per cent of the capital, surplus and [fol. 142] undivided profits.

Q. When you went to pay your taxes, did you or not find that there had been a raise in this assessment?

A. Yes sir.

Q. About what per cent of your total or capital, surplus and undivided profits had the valuation been raised?

A. To about one hundred per cent.

Q. Did you or your bank receive any notice of any kind from the State Tax Commission of any such raise in the valuation placed in your bank shares?

A. Did not.

Q. Did the county assessing officers *five* you or your bank any notice of any kind of any such raise?

A. No sir.

Q. When the Board of Supervisors for the County of Scott met, did you receive any notice from them of any such raise on your bank shares, or any raise of your bank shares?

A. No sir, we did not.

Q. Have you before you a statement of the total of the loans and discounts of your bank for the year as of July 1st, 1921?

A. Yes sir, I have.

Q. What was the total?

A. Total loans and discounts $548,144.91.

Q. How were these divided as to how much was represented by notes secured by real estate mortgage, and how much unsecured or personal security only?

[fol. 143] A. Notes secured by mortgage on real estate $78,691.63. Secured by stocks and bonds, $17,265.14. Personal Security $446,-788.14.

Q. On that date how much did you have invested in bonds and other securities, other than notes?

A. $92,563.52.

Q. And on deposit with your corresponding banks?

A. $75,466.54.

Q. I call your attention to the list filed with the deposition of Ben Marshall, herein, which shows that there were given in for taxation as of July 1st, 1921, unsecured notes in the hands of individuals amounting to about $159,000.00. What percentage in your opinion, of unsecured notes actually held by individuals in the County of Scott, on that date, would you say that that represented?

A. I would not think more than one fourth of it.

Q. On what do you base that estimate?

A. On my general knowledge of what goes out thru my bank as the proportionate part of the total in so far as money is checked out by individuals for loans to individuals, and on my general knowledge of the amount of money in the hands of individuals, and the extent to which individuals are engaged in the loaning business in this county.

Q. From your knowledge of the extent to which individuals loan money in this county, either on secured or unsecured paper, and your knowledge of the extent to which they buy local securities, such as local street, municipal, County bonds, and other bonds, do [fol. 144] you consider that the individual investor in these forms of security comes into competition with your bank shares, and with the conduct of your banking business?

A. It certainly does.

Q. Do you consider that such competition furnished by individuals as relatively large of small in amount?

A. Large.

Q. In your banking business, have you not had experience of a depositor taking money out of your bank for the purpose of taking up desirable loans held by your bank?

A. Yes sir, I have.

Q. State whether or not that experience is frequent or the reverse?

A. Rather frequent. I have known it to happen very often.

Q. Now in the face of competition which has been noted by one of the other bankers, I will call your attention, and ask if it has come in your experience also, that is by individual investors absorbing a large — of the high interest local paper, and local securities, and forcing your money to be invested in lower rates of interest, or forcing it to remain on deposit at a very much lower rate of interest. Is that true, or not in your experience?

A. It is true, has been true in our bank.

Q. Since the tax rate on securities such as I have enumerated in the hands of individuals has been lowered to a total of forty cents [fol. 145] for all purposes, state whether or not you have noticed an increase in individuals to engage in the business of loaning money and purchasing securities?

A. Yes sir, there is an increase in it.

Q. Do you consider that that increase is a direct result of the lower tax rate on securities?

A. Yes sir.

Q. What other effect does that have in making compe-tion with your bank shares and banking business, besides lessening the amount of local paper for the investment of your funds?

A. I will answer that by saying that very frenquently money is withdrawn from our bank, lessening the deposits in our bank, with which to make these loans. Formerly people were satisfied to keep their money in the bank rather than pay the high rate of taxation on investments. We are frenquently importuned by our customers to get investments for them, invest in good note- of the very kind we are trying to make for our bank.

(Signed) W. G. Abbott.

[fol. 145½] Also the deposition of W. G. Abbott, taken at the same time and place and for the same purpose, taken on cross-examination.

Cross-examination.

By Mr. H. Church Ford, attorney for defendant:

Q. What amount of money did the First National Bank of which you are Cahsier, have borrowed during the year 1921?

A. The average amount during the year?

Q. Yes.

A. Average bills payable, money borrowed directly, $51,900.00 on re-discounts $6,630.00 in round numbers.

Q. What is the total amount that your bank can borrow under its resources, borrow directly?

A. The amount of capital stock——

Q. How much is that?

A. $50,000.00.

Q. So the average amount that you had borrowed during the year equaled the total borrowing ability of the bank?

A. It was run over thru the year 1921, most of it had been borrowed the previous fall.

(Signed) W. G. Abbott.

[fol. 146] Also the deposition of C. B. ROBERTS, taken at the same time and place for the same purpose.

Witness, after being first duly sworn according to law, deposes and says as follows:

Direct examination.

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. You are the Cashier of the Citizens Bank of Stamping Ground?
A. Yes I am.
Q. What is your full name.
A. Clark B. Roberts.
Q. How long have you been cashier of this bank?
A. Since 1900.
Q. Have you a statement of your bank as of July 1st 1921?
A. Yes sir I will file it.
Q. I wish you would in making out this statement and filing it show the total loans and discounts and divide the loans and discounts up into those secured by mortgage on real estate, those secured by collateral, those unsecured or secured only by personal surety. Also let your statement show the amount of bonds and securities of that kind held by your bank, and the amount of your deposits in your corresponding banks as of the same date?
[fol. 147] A. Yes sir.
Q. From your knowledge of money conditions in your community, and of money loaned by individuals generally in your community state whether or not individuals making loans on unsecured notes or on notes secured by mortgage, or local securities or other kinds, in your opinion come into competition with your bank shares and with the conduct of the business of your bank?
A. Yes sir, very much so.
Q. In your opinion is this competition material or otherwise?
A. Yes sir, it is very material.
Q. Where is your bank located?
A. Stamping Ground, Scott County, Kentucky.
Q. Is there any other bank in your immediate community?
A. No sir.
Q. Suppose there were another bank located in your community of substantially the same size as yours, and individual competition were eliminated, do you think there would be any difference in the competition between such a bank and the individual competition as it now exists?
A. I do not think there would be any.
Q. If individual competition were eliminated in making such loans what effect do you think it would have on the earning capacity of your bank, and on the amount of dividend that you would be [fol. 148] able to pay on your bank shares?
A. Suppose we were paying a six per cent dividend, I think it would increase the dividend to at least ten per cent.

Signature waived.

The taking of the depositions is here adjourned until the morning at eight-thirty, at the same place.

The deposition of J. C. NICHOLS, taken, pursuant to adjournment, on the 29th day of September, 1923, at the law offices of Bradley and Bradley, to be read as evidence in plaintiff's behalf on the trial of the above-styled action.

Witness, after being first duly sworn according to law, deposes and says as follows:

Direct examination.

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. Give your full name, age and occupation?

A. John C. Nichols, Thirty-eight years, Cashier, Farmers Bank and Trust Company, Georgetown, Kentucky.

Q. How long have you been cashier of this bank, and how long in the banking business generally?

[fol. 149] Cashier since October 1st 1919, been connected with the same institution and in the banking business since March 4th, 1907.

Q. You were then Cashier on July 1st, 1921?

A. I was.

Q. Will you please file a statement of your bank as of that date?

A. I will get that.

Q. What is the total of your loans and discounts as of that date?

A. Total loans and discounts $720,708.03.

Q. How were they divided under the following heads: Loans secured by mortgage on real estate?

A. $348,463.68.

Q. Loans secured by collateral?

A. $89,973.43.

Q. Unsecured loans, or personal surety only?

A. $288,270.92.

Q. What was the amount of bonds and other securities held by your bank as of that date?

A. Total bonds and warrants and other bonds, $200,558.41.

Q. Total on hand in corresponding banks?

A. $67,751.59.

Q. The statement filed with the deposition of Ben Marshall shows that the total of unsecured notes held by individuals and given in for taxation in the County of Scott were $159,000.00 as of July [fol. 150] 1st, 1921. From your knowledge of general money conditions here in the county, your knowledge of money in the hands of individuals, and the extent to which individuals engage in the loan business, what per centage in your opinion does this $159,000.00 represent of the total of unsecured notes actually owned by individuals on that date?

A. I would say from thirty to forty per cent.

Q. If you can in detail, give the facts on which you base this opinion?

A. From time to time in consultation with customers, and in confidential relations they reveal to us notes that they hold against various individuals, and while no actual information can be obtained upon the total amounts, it is my best judgment, the total of notes listed would not exceed that *is* for taxation, would not exceed forty per cent, and would be nearer thirty.

Q. Taking that list as filed with the deposition of Ben Marshall, which shows something over one million dollars in the hands of individual owners in notes secured by mortgage, $188,000.00 owned by individuals in bonds, and your own knowledge as to the extent of unsecured notes held by individuals, do you consider that the individual dealing in bonds, secured and unsecured notes in Scott County, come into competition with your bank shares, and with your banking business?

[fol. 151] A. My opinion is that it does create competition, and serious competition as evidenced by the total amount as shown by Mr. Marshall's statement which is $1,408,000.00 of bonds, and secured and unsecured notes. This amount is considerable in excess of the loans of any bank, National or state, in this county, and is also a larger amount than the investments of some two or possibly three of the smaller banks in our county. Particularly is this true concerning mortgage paper in which our bank is a considerable purchaser, and in many instances the lender of this money obtains the best and more marketable mortgage paper. This money in many instances, has been withdrawn from deposit in the Farmers Bank & Trust Company, and loaned to individuals, who in turn pays off the loan to us.

Q. Since you have started the matter of competition, please state in what other ways, in your opinion, this individuals dealing in such paper and bonds in Scott County, does come into competition with your bank shares, and with your banking business generally?

A. In one way it prevents us from buying many mortgage loans, and in withdrawing money of the customer from the bank, thereby in two ways reducing the earnings of the bank. Again customers do business with a bank thru one or two ways, either by reason of knowing someone intimately connected with the bank, or by the existence of loans and favors granted them. Usually an individual [fol. 152] who has obtained a loan from a bank becomes a customer of that bank, there by becoming an asset of the bank and a real friend. Becoming a customer in many instances becomes a saver. Thru taking up these choice loans by the individual the bank is hindered considerably in its influence in a neighborhood thru loaning its money, making its earnings and benefiting that community. Also by the individual absorbing these select investments, the bank is forced to invest surplus funds in investments yielding a lower rate of interest, such investments, as United States Bonds and Treasury's notes, which yield from four to four and a half per cent per annum,

state, county and city warrants, and other high class bonds. This lower rate means a reduction of earnings to said bank. In some instances we have learned and seen loans that have been made to our customers by individuals at a lower rate of interest than we charged, thereby having our loan paid off, and our earnings decreased. Again these amount of loans, as shown by Mr. Marshall's report, totaling one million, four hundred and eight thousand dollars, yield a county tax of only forty cents on the one hundred dollars, with no overhead or expense borne by the individual lender, whereas in the case of the Farmers Bank and Trust Company, its tax rate for 1921 on its bank shares was $2.70 per one hundred dollars. [fol. 153] This $2.70 rate covers $1.05 county and state and $1.65 municipal. To maintain an institution of our size, paying its employees, its taxes, and general expenses, we find that the amount expended for same 1921 was $30,213.45. There figures are only one of the five banks in this county, with general expenses of the bank to pay and to meet competition as evidenced by the loans in the hands of individual lenders.

Q. The statute by which individual holdings of paper such as we have enumerated, was exempted from local taxation and subjected to a tax of only forty cents per one hundred dollars was past in 1918. What effect if any on the amount of money invested by individuals in Scott County in such securities as we have enumerated did this exemption from local taxation have?

A. It has caused considerable increase in the number and amount of loans in the hands of individual lenders, and competing in the same class of paper with the local market supplies thereby increasing the seriousness of the competition in our line of business.

Q. I show you a blank which is marked No. 14-A, filed with the deposition of Ben Marshall, which purports to be a copy of a report filed by the Georgetown National Bank and ask you if your bank filed a similar report in 1921 as of July 1st?

[fol. 154] A. We did.

Q. I notice the line "bank shares" in which you were by said bank required to put a valuation on your bank shares. How did you value your bank shares in that year?

A. Eighty-five per cent of the total capital, surplus and undivided profits.

Q. When you went to pay your taxes for that year, had that valuation placed on the shares by you been raised?

A. It had.

Q. To what per cent of such capital, surplus and undivided profits had it been raised?

A. One hundred per cent.

Q. Do you know by whom it had been raised—did you receive any notice of any such raise from the tax officials at Frankfort?

A. I did not.

Q. From the local assessing officers of Scott County?

A. I did not.

Q. From the Board of Supervisors in Scott County?

A. Did not.

Q. Did you have any notice in any manner whatsoever of such raise from any source, before you went to pay your taxes?

A. Did not.

Q. In this suit there is an attempt to collect certain taxes for the year 1919, 1920 and 1921, when was these tax bills marked "corrected tax bills", presented to you for payment.

[fol. 155] A. Just pior to the filing of this suit to enjoin their collection.

Q. Taking each year—in 1919 was a tax bill presented to you by the Sheriff in regular form on your bank shares, and real estate for that year?

A. It was and paid upon its due date.

Q. In the year 1920 was a tax bill in regular form presented to your bank and paid to the Sheriff of Scott County?

A. It was.

Q. Did the same happen in 1921?

A. It did.

Q. During these years was any further tax bills presented to you, or any further demand for taxes made upon your bank in any way at all?

A. No sir, none whatever.

Q. Have you these tax receipts that you paid for these years?

A. Yes sir.

Q. Please file them?

A. I will.

Q. Now going back to the matter of competition, I would ask you to compare and state just what business your bank is in and then the business that these individuals are in, in order to show just how the two businesses compare.

A. Our bank makes mortgage loans in this community, the individual lender does the same. The bank loans money on collateral and the lending individual does the same. The bank loans its [fol. 156] funds on high class, one named personal security notes, state and county warrants, the individual lender does the same. From the rapid increase of loans in the hands of the individual lenders, and the severe competition created thereby, and the difference in tax rates, and over-head expenses borne by the bank, it has become a real menace to the banking interest, and is limited only by the amount of money loaned by the individual before the bank is seriously handicapped in its line of business and influence in the community.

Also J. C. Nichols, being recalled for cross-examination, testifies as follows:

Cross-examination:

Q. Mr. Nichols in your examination in chief, you asserted that one character of security in the hands of individual owners which

came in competition with the banks, are bonds, and Mr. Marshall has listed with his deposition a number of these bonds held by private individuals as of July 1st, 1921 in this county. The total of which is $188,280.00, of these $181,000.00, are reported as held by W. Z. Thompson do you know him?

A. Yes sir, I am acquainted with him.

[fol. 157] Q. Is he a customer of your bank?

A. Yes sir.

Q. Is it not true from your knowledge or information that these bonds of Mr. Thompson are municipal bonds and securities on Florida municipal property—Miami property?

A. My information is they are not municipal bonds?

Q. What character of bonds are they?

A. They are real estate bonds, mortgage bonds issued upon real estate owned by individuals and corporations.

Q. In the state of Florida?

A. Yes sir, I have never seen any of the bonds.

Q. Assuming that your information is true you would not presume to say that investment of $181,000.00 in Florida bonds secured by real estate in Florida, comes in competition with any of your investments?

A. No sir, other than this money might be on deposit with us, and be withdrawn thereby causing a loss of earnings.

Q. Might be withdrawn for any purpose so far as that is concerned? Consequently we eliminate $181,000.00 of the bonds listed here as of July 1st, 1921, what per cent of the bank's capital and deposits is required by law to be kept in reserve unloaned ready for call at any time—what per cent of your assets, allowing seven per cent upon your demand deposits and three per cent on time deposits?

[fol. 158] You are required by law to keep on reserve and uninvested seven per cent of your demand deposits, and three of your time deposits.

Q. On July 1st 1921, what was the amount of your demand deposits, do you know?

A. No sir, I have not that with me.

Q. Can you give approximately?

A. Demand deposits were about $424,916.26.

Q. The total of time and saving bear three per cent?

A. Yes sir, $404,000.00 in round numbers.

Q. Does that represent about an average of your deposits throughout the year—July 1st, deposits would represent the average thru out the year?

A. Without referring to any particular date, I think so.

Q. According to the law, you were required to keep as much as forty thousand dollars or more in reserve?

A. Yes sir.

Q. During the year 1921, did your bank borrow money for the purpose of meeting demands for loans, of so what was the largest amount borrowed at any one time and when?

A. I could not state that off hand either, I could not say—sometimes reduction of deposits cause demand for borrowing money.

Q. Are you able to say that reduction of deposits in the year 1921, ever took place to the extent to cause you to borrow money to replace your reserve?

A. Not without looking up the record I could not say. You are [fol. 159] required by law to keep on reserve and uninvested seven per cent of your demand deposits, and three of your time deposits.

Q. On July 1st 1921, what was the amount of your demand deposits, do you know?

A. No sir, I have not that with me.

Q. Can you give approximately?

A. Demand deposits were about $424,916.26

Q. The total of time and saving bear three per cent?

A. Yes sir, $404,000.00 in round numbers.

Q. Does that represent about an average of your deposits thru out the year—July 1st. deposits would represent the average thru out the year?

A. Without referring to any particular date, I think so.

Q. According to the law, you were required to keep as much as forty thousand dollars or more in reserve?

A. Yes sir.

Q. During the year 1921, did your bank borrow money for the purpose of meeting demands for loans, if so what was the largest amount borrowed at any one time and when?

A. I could not state that off hand either, I could not say—sometimes reduction of deposits cause demand for borrowing money.

Q. Are you able to say that reduction of deposits in the year 1921, ever took place to the extent to cause you to borrow money to replace your reserve?

A. Not without looking up the record I could not say.

[fol. 160] Q. I will ask you to look at your record on that point as it is right material to see whether or not your deposits were reduced?

A. Either reduction in deposits or caused by loaning, you could not judge it to either one.

Q. If your reserve was impaired——

A. The reserve was not impaired.

Q. Then the deposits would have first call on the reserve?

A. Yes sir.

Q. The necessity of the loan would be brought about by demand for loans?

A. Not exactly so, it might be caused by withdrawel of deposits.

Q. How does withdrawal of deposits, without demand for loans cause you to have to borrow money?

A. It might be by some individual checking upon the bank would reduce the reserve, the bank would not be making a loan by it, altho the deposits would be decreased.

Q. I will ask you to examine your record and state whether or not at any time during 1921, you were caused to borrow money by withdrawal of deposits?

A. I will have to look at the record—that is a thing that takes place very often.

Q. You understand we are referring to withdrawal of deposits in general banking business during the year, that's what I mean [fol. 161] by that statement. As a matter of fact your borrowing of money is for the purpose of meeting the demand of your customers for loans, is it not?

A. Primarily so.

Q. Assuming that it is only primarily so, it is true that in 1921 it was so.

A. To some extent, yes sir.

Q. You were called upon to borrow money in order to meet the demands of your customers to borrow?

A. Yes sir.

Q. What amount of money did your bank borrow during the year 1921?

A. The largest amount was on January 19th, at which time it had borrowed on bills payable $147,500.00 On re-discounts $25,325.50, a total of $172,825.50.

Q. What is the total amount that your bank can borrow under the law?

A. An amount equal to the capital, surplus and undivided profits on bills payable.

Q. What does that amount to?

A. In that case that amounted to $183,518.08, on bills payable.

Q. That was the total you could borrow under any——

A. On re-discounts an amount equal to one-half of the capital—— [fol. 162] Q. I am not asking about re-discounts——

A. Al- right.

Q. So you had borrowed in 1921 within about thirty thousand dollars of your total borrowing capacity for bills payable?

A. For bills palable, yes, sir *just* about.

Q. How much did you have borrowed on July 1st, 1921.

A. July 1st 1921, the statement submitted for record in the depositions show at the close of business June 30th, 1921. $35,000.00, however on July 1st 1921 additional bills payable of $25,000.00 was received, making a *total* on that date of $60,000.00.

Q. What was the average amount monthly that your records show your bank had borrowed during the year?

A. I could not say that accurately, I should say somewhere in the neighborhood of sixty to seventy-five thousand dollars.

Redirect examination.

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. Your bank, altho a state bank has joined the Federal Reserve System?

A. Yes sir, a member of that, has been for several years.

Q. Consequently the amount that you have—that you are re-

quired to keep in the Federal Reserve Bank, does not apply to other state banks that are not in the Federal Reserve Bank System?

A. At that tiem we kept the reserve required by the Federal Reserve act, and was one of the few state banks which was a member [fol.163] of the Federal Reserve System. My opinion is that the reserve required by the state law at that time, was in excess of the Federal Reserve act, the state law afterwards to the best of my information, having been charged to correspond with the Federal Reserve Act.

Q. You were asked in regard to the cause of your having to borrow the implication from the question being that it was because of loans you had to make. I will ask you when you do most of your borrowing, what period of the year?

A. Ordinarily it is July 1st to about December 1st.

Q. Is not that the period of the year when your deposits are always lowest?

A. It is nearly without exception.

Q. What period of the year are your deposits highest?

A. After the opening of the tobacco market, which is usually in January or February.

Q. From that time on up until when, do they stay high?

A. They have run under the old loose leaf sustem of selling until April 15th, but under the present co-operative plan of selling, the amounts other than in the late fall, run just about the same.

Q. During these months when you say that your deposits are highest from January to April or May, do you ordinarily borrow any money at all?

A. Very seldom.

[fol. 164] Q. Does the amount that it is necessary for your bank to borrow have any relation to the amount of deposits that you have on hand at any one time during the year, and when your deposits are high—what is the state of your borrowing account when your deposits are low—what is the state of your borrowing account?

A. When the deposits of the bank is the highest, usually every bill payable or re-discount of the bank has been liquidated and the bank had in reserve a large balance, and when the amount of the deposits are lowest there is an active demand at that time of the year for money.

Q. Is it not a fact then that the size of the loans which it is necessary for your bank to obtain from other banks is directly controlled by an increase of withdrawal of your deposits?

A. It has considerable weight upon it, but not entirely so.

Q. You are asked particularly with reference to the bonds of Mr. W. Z. Thompson, is Mr. Thompson a depositor at your bank?

A. He is.

Q. Was he in 1921?

A. He was.

Q. State whether or not any portion of these bonds were paid for by withdrawal of deposits from your bank, checks on your bank?

A. I will have to look the record up on that.

[fol. 165] Q. I wish you would.

A. The witness later stated that he had examined the records and found that on March 22nd, 1921 the said W. Z. Thompson drew a check to a Florida Bank for $6,000.00 and on May 3rd drew a check to a Florida Bank for $15,250.00, on November 18th, the same bank $5,000.00, a total of $26,250.00. The witness stating however, that he did not know for what these checks were given.

Q. If in the year 1921, you had eliminated the amount of individual money that was invested in notes, both mortgage and unsecured, all kinds of notes, and had eliminated the individual money that was invested in bonds etc, do you not think that it would have increased your deposits to a sufficient amount so that you could have carried practically the same amount of loans you did carry thru that period without borrowing yourself?

A. It would have enabled us to, not only to have increased our deposits to such an extent as to pay all current borrowing, but also to have in reserve a large cash balance.

Q. You have stated on your direct examination the methods by which you think individual money invested in these various forms of security compete with your bank, which of these in your opinion is the most important so far as it does offer competition to your bank business. The withdrawal of deposits or the prevention of your obtaining loans yourself?

[fol. 166] A. Both are vital to the success of a bank, it could not run without deposits, but might buy investments on the outside such as high class bonds etc.

Recross-examination.

By Mr. H. Church Ford, attorney for defendants:

Q. Do you know how much money was borrowed out of your bank in 1921 by individual property owners for the purpose of investing in securities in that year, which otherwise the bank would have taken?

A. No sir.

Q. How are you able to say in your answer to Mr. Bradley's question that you would have enough money to liquidate your borrowing and re-discount, if it had not been that you did not know how much was taken in that year for that purpose?

A. My opinion was based on the figures as indicated by the report of Mr. Marshall.

Q. Does that report show that any of that money was taken out of your bank?

A. No sir.

Q. Or that any of it was taken out in that year?

A. No sir, the report does not show that any of that money was taken out of my bank, but with five banks in the county to furnish money, it would be but natural for at least a part of this to have been withdrawn from our institution and used for those purposes.

[fol. 167] Q. Are you able to say that if these depositors had not

taken it out and invested in these securities, that they would not have taken it out for other purposes such as investing in loans and what securities that do not come into competition with you?

A. This money might have remained on deposit in the banks of the county for an indefinite time, if it has not been thru the individual lenders seeking loans.

Q. Don't you know it to be a fact that people who have a sufficient amount of money do not allow it to lie idle in the bank for the benefit of the banks, but that you could not and would not expect that even if not invested in this character of security?

A. Our experience with customers *how* have a substantive balance in bank is that for making various sorts of investments, that considerable thought and time is given to the matter. During that time the bank has the advantage of the use of their money.

Q. As a matter of fact all of the money taken by individuals and invested in loans of various kinds thruout the county is not taken out of the bank's deposits, as a matter of fact does not practically all of the money that is loaned here on secured or unsecured paper go right back to the bank's deposits to the credit of another customer one way or the other?

A. Not exactly so, sometimes that money is sent out of the local county.

[fol. 168] Q. Sometimes there may be loans made to local people doing business with local banks on either land notes or other securities, that money still is in circulation and on deposit in the bank?

A. No sir, not exactly so——

Q. I did not ask that—To what extent would you say on an average, money that we refer to, leaves the county and what per cent remains on deposit in the banks?

A. That question would be impossible to answer.

Q. Give your best experience, you are a banker of long experience?

A. It would be impossible to answer a question of that kind.

Q. You do know it to be a fact that a large part of it does not go out of the county, don't you?

A. Sure, some of it does not go.

Q. In order to get your idea as to what constitutes competition with the banking business, do you consider that if a depositor withdraws his money from the bank, and invests it in a farm is in competition with the bank?

A. No sir, I do not.

Q. Do you consider that a man who sells his farm and takes part of the purchase price in notes, is in competition with the bank in its business?

A. No sir, I do not.

Q. Do you consider that a man who withdraws his money from the bank and invests in Government bonds, is in competition with the bank?

[fol. 169] A. Yes sir, I do.

Q. In what way.

A. In causing a reduction in the deposits of the bank, thereby lessening its earnings.

Q. Has the bank any claim on his deposits?

A. Not a bit in the world.

Q. Any right to claim it as their business assets?

A. It is a business asset as long as it remains in the bank.

Re-redirect examination.

By Mr. J. Craig Bradley, attorney for plaintiffs:

Q. You have stated that where a man sells his farm and takes part of the purchase price in lien notes, that he is not in competition with the bank—suppose these lien notes are negotiated to other parties and purchased by other individuals, state whether or not then they come in competition with your bank?

A. They come in direct competition with the bank.

Q. Just what is the per cent of the deposits in the county that your bank holds on an average—what is the size of your bank compared with the total bank deposits of the county in a general way?

A. I would say about one-third of the total amount.

[fol. 170] Q. Then in going back to the question of limiting individual investments in these various notes etc. what per cent of the money invested in these would you naturally figure that your bank would get on deposit?

A. Ought to receive about the same proportion, about one-third.

Q. Then taking the total that might be invested in the whole county. What per cent would you naturally expect would be withdrawn from your bank?

A. At least one-third I would say.

(Signed) J. C. Nichols.

Additional direct examination of Mr. G. T. Hambrick, taken at the same time and place and for the same purpose.

Direct examination.

By Mr. V. A. Bradley, attorney for plaintiff:

Q. You have heretofore stated that there were men—individuals in the County of Scott who loaned money in the same methods practically as the bank does. I wish you would give specific examples without giving the names or persons engaged in the business of loaning money buying notes and discounting them etc. That is in the year 1921?

A. I have before me a list of parties who loaned money the same [fol. 171] as the banks. I have five parties whom I know made loans in the year 1921, in the aggregate amount of $87,800.00.

Q. Take the first one you have on the list, how much did he loan in that year?

A. The first one I have, loaned money to three parties, a total of $33,000.00.

Q. The second one?

A. Loaned to five men, a total of $24,800.00.

Q. The third.

A. To two men, a total of $20,000.00, the fourth made one loan of four thousand dollars, the fifth one loan of six thousand dollars.

Q. Were these loans that they made, the paper they handled, the same kind of paper the bank handles?

A. Yes sir, the same kind of paper the bank handles.

Q. Do you know the names of the individuals to whom they loaned the money?

A. Yes sir.

Q. Were they such notes as the bank would handle?

A. Yes sir every one of them.

Q. Does this list which you have presented in any wise represent the entire amount that has been loaned that you have knowledge of in that year, or just examples?

A. Just examples, I am sure there is a good deal more. I should say four or five times that amount was loaned.

[fol. 172] Q. How did this information in regard to this come to you?

A. I have seen these notes.

Q. Did it come to you in the course of your banking business?

A. Yes sir, in the course of our banking business.

Q. Do you want to disclose their names?

A. No sir, I could not do that.

Cross-examination.

By Mr. H. Church Ford, attorney for defendants:

Q. What is your reason for not disclosing the names of these examples that you have in mind?

A. It is confidential business.

Q. In what way is it confidential—did the bank have any part in the transaction?

A. No sir, not at all. I take it that the bank has no right to disclose the name of parties to whom their customers loan money, or the amount they loan.

Q. Were these men who loaned this money depositors in your bank?

A. Most of them.

Q. Do you know the details with reference to the loans you refer to?

A. How do you mean?

Q. As to the matter of fact whether they were loans or some other character of indebtedness?

A. They were direct loans to the borrowers.

[fol. 173] Q. How do you know that?

A. The notes show they are, and checks were given to the borrowers in a number of cases on our bank.

Q. Have you custody of these notes?

A. No sir.

Q. How did you happen to see the notes?

A. I saw some of them when they were given, and a number of them are in our safety deposit boxes.

Q. Did the bank in any of these cases secure these loans for these people?

A. No sir.

Q. Did the bank, or any official of the bank, have anything to do with arranging or bring about these loans or any of them?

A. No sir, not a one of them.

Q. Were you consulted with reference to the character of these loans by any of the parties who made the loans?

A. I was in two instances.

Q. You recommended the loans to your customers?

A. I think the loans were made and then the notes shown to me and my opinion was asked regarding them.

Q. Were any of these persons to whom these loans were made customers of your bank?

A. Yes sir.

Q. Did any of them apply to your bank to make the loan?

[fol.174] A. No sir.

Q. Are they just personal notes, or notes secured by mortgage or vendor's lien?

A. All personal notes except two.

Q. What kind are they?

A. They are vendor's lien, purchased from the party who sold the real estate to the maker of the note.

Q. Are you able to state whether the bank desired these loans, and would have handled them at the time they were made by these individuals?

A. We would.

Redirect examination.

By Mr. V. A. Bradley, attorney for plaintiff:

Q. Mr. Ford asked you if you arranged these loans for your customers, where the money taken out of your bank it was a direct loss to your bank?

A. Absolutely.

Additional direct examination of Mr. J. C. NICHOLS, taken at the same time and place and for the same purpose.

Direct examination.

By Mr. V. A. Bradley:

Q. You have heretofore stated that there were individuals in this community who were engaged in loaning money in the same method [fol. 175] as the banks loan money, and that the loaning came into competition with the bank—have you specific examples of men engaged in the business in this community of loaning money?

A. Yes sir.

Q. Without giving their names will you give specific examples and the amount of the loans?

A. There were fourteen loans amounting to $24,500.00 by five individuals.

Q. Was that in the year 1921?

A. Yes sir, 1921.

Q. Does that in any wise cover the amount of money loaned by individuals that came under your observation as banker for that year, or just examples?

A. Just examples and some I have definite knowledge of, definite remembrance of?

Q. Were these loans such loans as the bank would have handled?

A. In nearly every instance.

Q. Was it desirable paper from the banker's standpoint?

A. It was.

Q. Did that actually come into competition with the bank's business?

A. It did in a way for some of the loans were made to people—customers of our bank.

Q. Did the information in regard to these loans come to you in a confidential relation as a banker?

A. It did.

[fol. 176] Q. You have specific names and amounts in your mind when making that statement?

A. Yes sir.

Cross-examination.

By Mr. H. Church Ford:

Q. Did your bank seek to make any of these loans?

A. No sir.

Q. Did it make any effort to get any of these loans?

A. No sir, they did not apply to the bank for them.

Q. The bank made no effort to secure these loans made by other people which you have testified to?

A. No sir, but the people to whom the money was loaned were in most instances our customers, and the people making the loans were our customers.

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Q. Do you know any reason why they borrowed money from these individuals rather than from the bank, if the bank would give them the same service—the same terms at that time?

A. I know of no reason.

Q. Were the loans made on six per cent paper that was good in your opinion?

A. Some of it at seven.

Q. How was the paper secured?

A. Some of it by mortgage, some of it by personal endorsement.

Q. During what period of time were these loans—what period of the year that you speak of?

A. I could not state right now, part of it during the year however.

[fol. 177] Q. There is a period during practically every year that banks do not seek loans of that character, but as a rule they have all the loans they care to carry, is that true?

A. That is true, but at the same time the bank is nearly always disposed to take up desirable loans when asked for. In these instances every person applying for the loan—it was desirable paper.

Q. Nearly every year there is a time of the year when the bank seeks to get individuals to handle loans for their customers in order to accommodate them, and frequently turn over paper you are carrying to your customers?

A. Our institution in a very few instances has. In none of these instances as far as I remember do they apply to loans to individuals.

Redirect examination.

By Mr. Bradley:

Q. In some instances the money was actually checked out of your bank for the purpose of making the loan?

A. In every instance that I have it was.

[fol. 178] Also the deposition of L. L. CALVERT, taken at the same time and place and for the same purpose.

Witness, after being first duly sworn according to law, deposes and says as follows:

Direct examination.

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. What is your full name?
A. L. L. Calvert.
Q. Your age?
A. Thirty-five.
Q. Occupation?
A. County Clerk.
Q. Scott County, Kentucky?
A. Yes, sir.

Q. In the taxing years 1919, 1920, 1921 and 1922, were you either deputy County Clerk *of* County Clerk?

A. I was deputy county court clerk.

Q. Did your office make out tax bills for each of those years against the bank shares of the various banks of Scott county?

A. We did.

Q. When did you assume the office of County Clerk?

A. 1922.

[fol. 179] Q. After you become clerk did you make out additional tax bills against the bank shares of the various banks of the county for the years 1919, 1920 and 1921?

A. I did.

Q. I will ask you to make copies of such bills for these years as were made out by you against the Georgetown National Bank, and file them as a part of your deposition?

A. Yes, sir, I will.

Q. Mark them exhibits "A" "B" & "C".

A. Yes.

Q. Is this exact copy of the bills as made out for each one of these years and handed to the Sheriff for collection against these banks?

A. It is an exact copy of same.

Q. Give as close as you can the date on which these bills, marked "corrected receipts" were made out by you and placed in the hands of the Sheriff for collection?

A. To the best of my recollection July 1st, 1921.

Q. As I understand these bills they are made out against the bank shares of the Georgetown National Bank and the various other banks in the county for the difference between the rate of forty cents on the hundred dollars on the assessed valuation of the shares for each particular year and on the total state and county rate of $1.10 for 1919, $1.10 for 1920, and $1.05 for 1921?

A. That is correct, the receipt shows no tax, but made for the purpose of collecting the differences.

[fol. 180] Q. The receipt shows that the original tax bills as presented for each one of these years, and the amount for which they were presented were paid, and these various amounts are deducted from the total on each one of these receipts?

A. That is correct.

Q. How did you come to make out these corrected receipts?

A. Having been deputy county clerk when some were made, I knew they were figured as intangible property, and knew that the bank shares were figured as intangible property, and that rate only was charged, and believing that the law required the same rate of taxation as on other property, I then proceeded to make out corrected receipts as herein filed and figured the tax on bank shares for 1922 at said rate as other property as shown by the receipts herein filed.

Q. So these three bills for 1919, 1920 and 1921, marked "corrected receipts" and the 1922 receipt as filed were all prepared and presented in 1922, and were figured at the same rate?

A. That is true—that is correct.

(Signed) L. L. Calvert.

[fol. 181] Also the deposition of L. L. CALVERT, taken at the same time and place on cross-examination.

Cross-examination.

By Mr. H. Church Ford, attorney for defendant:

Q. What official position do you hold in Scott County?

A. County Court Clerk.

Q. Have you ever been engaged actively in the banking business in Scott County, Kentucky?

A. I have.

Q. How long were you so engaged?

A. For three years.

Q. Are you at present connected with any of the banks of Scott County?

A. A director in one.

Q. What bank are you a director of?

A. The First National Bank of Georgetown, Kentucky.

Q. Mr. Nichols has stated that where a man sold his land and took part of the purchase price in notes, that he does not consider these or that transaction in competition with the bank.

Do you as County Court Clerk have custody of the records of the county as of the year 1921, showing what notes, vendor's lien arise out of that character of transaction?

A. I have.

Q. Have you examined the assessment list filed by Mr. Ben Marshall in this case, showing the number or amounts of notes listed [fol. 182] for assessment by individual land owners, and if so are you able to state just what per cent of these secured notes, represent notes in the hands of the seller of land who takes these notes as part of the purchase price?

A. I have.

Q. What per cent of that list of secured paper is that character of paper?

A. Fifty.

Q. What per cent of the entire intangible property listed?

A. About thirty.

Q. From your experience as a banker in this county, and from your knowledge drawn from your official duties in the county Clerk's Office, and in banking, I will ask you to state whether or not in your opinion, the loans made by individual owners in this county as disclosed by this record comes into material competition with the bank, and state your reasons for your opinion?

A. No, sir—my reasons are in the first place that some of the loans made by individuals are loans which the bank refuses, and others are lien notes held direct by parties on land which they have sold, and for the further reason that *that* my observation of banks in this county has been that the banks can loan practically their limit during any time or nearly so.

[fol. 183] Q. I will ask you whether or not it is true to your knowledge that the banks of the county are frequently seeking an opportunity to get rid of loans, paper that they hold in order to release their funds, and if they do not thruout practically every year transfer a certain amount of the paper they carry to individuals——

A. Yes, sir, that is true I think, from my observations that that sometimes prevents them from having larger re-discounts.

Q. I will ask you if it is not true to your knowledge that the banks in this county have been willing in some cases to go to the extent of taking a second mortgage for a part of a loan where they could get Federal Land Bank or other landing concerns to take a first mortgage off their hands for a part of the land.

Q. Quite a number of them are recorded in my office.

Redirect examination.

By Mr. J. Craig Bradley, attorney for plaintiff:

Q. I believe you said you are County Clerk?

A. I did.

Q. You are the L. L. Calvert whose deposition we have taken showing that you made out these tax bills and receipts as a part of your duties as County Clerk?

A. That is true.

[fol. 184] Q. In these instances where you have noted that the bank took a second mortgage, I will ask you if your investigation did not further show that in every instance that a farm loan bank had a first mortgage, and also that the sum total of the two mortgages would not exceed the amount of loans originally held by the bank?

A. No, sir, to the first part of your question, and to the last—yes.

Q. To the part of the question then that asked if a farm loan bank was not always the first mortgages, is that not always the case?

A. They are first where they take them, but there are others given on farm land—the banks do not take all of the notes referred to.

Q. It is a portion of the contract of a farm loan bank mortgage, that a part of the principal be paid off each year?

A. I think that is true.

Q. From such investigation as you have made, would you not also state that in practically every one of these loans, knowing the parties and knowing the land, you would not consider them particularly desirable loans?

A. Most of them I would not say so.

Q. Would not say which way.

A. I would not say that they were not most desirable loans. However I do not think that it aided the bank except to lower their loan.

[fol. 185] With what bank were you associated when you spoke of having three years' banking experience?

A. Citizens Bank of Stamping Ground.

Q. That is one of the parties to this action?

A. Yes sir, one of the five banks of the county at present.

Q. What years was it that you were associated with the bank?
A. I am not positive right off-hand, I think 1914, 1915 and 1916.
Q. In what capacity?
A. Assistant Cashier.
Q. You spoke of the various transfers of the notes to individuals, don't you know that in a large per cent of these cases, it is where an individual customer has demanded a loan from the bank, or asked for a transfer of a loan from the bank?
A. I don't know that.
Q. Did you not find that true when in the bank at Stamping Ground, that individual customers of the bank ask the bank to invest their money for them, on deposit in the bank?
A. In a few instances I have, yes sir.
Q. And you were in there when the tax on such loans was the full personal property tax, and not simply forty cents on the one hundred dollars?
A. That is true.
Q. Do you not know that the lowering of the tax rate on such forms of investment in the hands of individuals has been an additional incentive to make them invest in that class paper?
[fol. 186] A. I do not know.
Q. In your opinion do the banks themselves come in competition with each other?
A. To some extent yes sir.
Q. Do you consider any competition in the banking business at all?
A. I do.
Q. In what does it consist?
A. Occasionally one bank will try to win deposits from another bank, which would be competitive business.
Q. Do you not consider the business of the bank to consist of just two things—getting deposits and investing these deposits——
A. That is true.
Q. Would you not say then that any person having money to deposit and investing it in the same class of security that the banks invest in necessarily comes in competition with it?
A. Not always in my opinion, no sir.
Q. Again going back to the other question that certainly each individual bank comes in competition with each individual other bank?
A. To some extent they are in competition, and in some cases I have known them to assist each other.
Q. It is true that a competitor sometimes assists his competitor?
A. Yes sir.
[fol. 187] Q. Taking your own estimate of the amount of these mortgage notes that you say are vendor's liens, that would leave still a total of over five hundred thousand dollars invested in secured notes by individuals—comparing these with the assets of the various banks, do you not think that that sum of money invested and withdrawn from deposit, necessarily comes in competition with these banks?

A. No sir, because I think a large portion of that is still not in competition, because I do not pretend to say that we have all of the land notes, or all of the other kind of investments. Or the good ones I know about, that is not a fair per cent.

Q. From your knowledge of the methods of giving property in for taxation, and from your knowledge of individual holders of paper, do you not think that the sum of five hundred thousand dollars as given in for taxation in 1921, unsecured notes, represent a very small portion of the unsecured notes actually held in the county by individuals?

A. No sir, from my observation I would say it represented a large per cent.

Q. You know of course that the bank's form of investment of its funds is in mortgage notes, vendor's lien notes, unsecured notes and collateral notes, do you not?

A. Yes.

Q. Also a few county warrants, city warrants, and bonds, and other form of bonds?

[fol. 188] A. Yes sir.

Q. Taking the notes and mortgages, vendor's liens, etc., all of these, or practically all of them are local borrowers, are they not?

A. Most of them, yes sir.

Q. Do you not personally know that it is the custom for individuals here to invest in local county warrants and city warrants?

A. I think there are, yes sir.

Q. Suppose there is a certain commodity in which five persons are dealing, both in buying and selling, then suppose we will say, that number is doubled, do you not think that that is bound to create competition in the buying and selling of that commodity, additional competition?

A. It might unless the commodity itself was enlarged which I think is true in 1921.

Q. I am referring now of course in this particular instance to a commodity, that we are dealing in is notes, local bonds and some outside bonds, warrants, we have five banks dealing in buying and selling of these commodities, do you not think that the individuals who then come into the market with funds which amount to as much or more than any bank in the community, is bound to come in competition with each of these banks?

A. Not if these banks are able to compete to the amount that their deposits will stand, I do not.

[fol. 189] Q. Do you not think that the fact that these individuals who are buying this same commodity and dealing in it, withdraw the money which they invest in this commodity, from the bank, this is an additional competition and an additional drag on the business of the bank?

A. I do not from the fact that the men who would invest in that would invest in some thing if he did not receive that.

Q. Don't you know it to be a fact that before the tax rate was lowered to forty cents on such class of paper, it was the custom of individuals to leave very large amounts of money on deposit in the

banks for a long time, and that that custom has been greatly decreased since the tax rate was lowered?

A. No sir, from my observation of the bank in which I worked the deposits that you refer to are now larger than they were at that time.

Q. It is true of course that the deposits generally in all the banks have increased since that time from any where from one hundred to two hundred per cent, has it not?

A. Not quite that large but a large per cent.

Q. What per cent of the county warrants assessed thru your office, are taken by individuals?

A. I could not say, but I do not think a very large per cent. [fol. 190] Q. Is it not a fact that anywhere from twenty five to fifty per cent of these county warrants are taken by individuals?

A. My estimate would be twenty-five per cent.

Q. Do you not consider county warrants as one of the most desirable forms of investment that the local banks have to make?

A. I consider it a good investment for any bank.

Q. Is it not one of the most desirable forms, not only on account of its surety, but on account of its rate of interest and short time?

A. I should think it very desirable on account of that, yes sir.

Q. It is also exempt from state and Federal income taxes?

A. I do not think it is exempt from Federal income tax.

Q. Of course that would make it all the more desirable?

A. If that is the case for a bank having a large income. If a bank had sufficient funds to invest in that I think it would be one of the most desirable forms.

Recross-examination.

By Mr. H. C. Ford, attorney for defendants:

Q. Have you ever seen any banks make any effort to seek investments in these county warants?

A. I have not.

[fol. 91] Q. Is it not true that the banks have been able to get all they desire, so far as you could say?

A. I have never seen any requested they did not get?

Q. Have you ever seen any of the banks deprived of any of the county warrants they wanted by reason of some individuals taking it up?

A. I have not.

Q. You issue all of the county warrants as county Clerk?

A. I do.

Q. I will ask you if it is not true that during the year 1921 the banks refused to handle the warrants at all, and the county had to borrow money in Cincinnati to finance their own county warrants?

A. That is true.

—. In regard to thes- secured notes of which you say that at least one-half of them are vendor's lien notes, and which it has been shown in the testimony are not in competition with the banks with

reference to the remainder of these secured notes I will ask you to give your opinion from your knowledge of the secured paper that is recorded in the Clerk's office, mortgage etc., and also with reference to the unsecured paper, I will ask you if it is not your opinion that a large part, in fact the greater part of that remainder, one-half million, is not paper which is taken by individuals by reason of the fact that the banks do not want it or the surety is not suffi-
[fol. 192] cient to the bank?

A. A large portion of that—it is true.

Q. I will ask you if it is not true that the individual money lenders in practically all cases prefer to invest in Government bonds, and other nontagible sur/ties, rather than in this character of surety, all things being equal?

A. That is my observation yes sir?

Q. Have you ever seen it to be the case that the banks of the county were deprived of any loan which they sought of desired by reason of competition with individual money lenders?

A. No sir.

Q. From your knowledge of the banks of the county. I will ask you whether or not there has been any competition with banks which caused the banks to have to loan their money at any reduced interest on account of competition?

A. No sir.

Q. You say that you have been a director of the First National Bank for How many years?

A. About three I believe.

Q. I will ask you if in your knowledge of the banks in this county ther- has ever been any competition in the county with banks that caused the banks at any time to have to loan their money on local paper at any less than six per cent?

A. Not from my observation, no sir.

[fol. 193] Q. From your knowledge of bank conditions. I will ask your opinion in regard to this fact. It has been stated by some of the witnesses in this case that at a certin time of the year there arises in the banks surplus on account of cash coming in from the sale of tobacco, between January and April, now as a banker I will ask you to state whether or not it would be good banking or whether or not it is the policy of banks, to seek local securities or any of the character of loans that individu*las* i-vest in as shown by this record, for the purpose of investing that surplus, or is it the policy of the bank, and is it good banking for the banks to reserve that surplus in the hands of their correspondents to meet the banks' demands which always arise later in the year?

A. I think it only safe banking to reserve that from the fact that the deposits decrease later in the year to where a bank would not be safe if they loaned their full capacity at that period.

These individuals' loans run for such a period as would not be safe for a bank to hold under those conditions.

Q. Then it is necessary for bankers to lay up that reserve in order to carry on their banking business throughout the remainder of the year?

A. It is.

[fol. 194] Q. If they invested that character of surplus that has been referred to in such paper as local individuals invest in and have listed for taxation. I will ask you if it is not true that the bank would be to a great extent put out of business the latter part of the year when the demands get heavy on them?

A. It would work quite a hardship on them.

Q. Therefore it is to the advantage of the bank to reserve that surplus rather than invest in this character of paper?

A. In this character of paper, yes sir.

Redirect examination.

By Mr. J. Craig Bradley, attorney for plaintiffs:

Q. Do you not know that under the present Federal Reserve System, any of the banks in the county can borrow a sufficient amount at any time to tide them over that portion of the year to which you have referred and do you know that they do it constantly?

A. They do, but they do that without the additional loans which the individual holds.

Q. Do you not know as a matter of fact that they all try to invest just as they can in good high rate of interest paper at any time?

A. They do so to the extent of still retaining their per cent as required by law.

Q. Of course we understand they are bound to retain the per cent required by law, but I thought you were referring to the amount [fol. 195] that they necessarily invest from time to time in Government bonds?

A. I was not referring to Government securities, except that individuals do sometimes invest in these.

Q. Do you not think if you could invest all of your surplus money up to your reserve at six per cent, no matter how much you had to borrow in the fall, it would be better banking than to carry it on deposit in correspondent's bank, or to loan at four per cent?

A. I do not because I think banks could loan too much to be safe, there has been a demand in thi- county to that extent to where it would be unsafe.

Q. That was at the only period of bank depression that we have known in the last twenty years?

A. It was not, no sir.

Recross-examination.

By Mr. Ford:

Q. I will ask you if it is not true that notwithstanding that fact that the banks of this county have kept on deposit these large surplus to meet the demands, that when the demands occur that practically every bank in the county has to borrow to its limit?

A. I think that is true.

[fol. 196] Q. You heard the testimony of the Cashier of th First

National Bank to that effect and of the Farmers Bank and Trust Company?

A. I did.

By Mr. J. B. Finnell, attorney for defendants:

Q. You have testified that you have known a number of cases where the banks in this county held high class securities such as vendors' lien notes, and like class of securities and assigned that security to individuals who had deposits in the bank so assigning these securities to them——

A. Yes sir.

Q. In all such cases that have come within your knowledge was this assignment or transfer considered a transaction in the nature of competition on the part of the individuals with the bank for that surety, or co-operation, which?

A. Co-operation.

Q. In these cases was there any reason why the bank could not have held thes- securities and not transferred them if they so desired?

A. Not to my knowledge.

Q. Does your bank so far as you know—the officials connected with it consider that if a depositor has money in your bank and takes that money out to invest in bonds of any character, or any hegh class securities, that as a result of that act, he is in competition with the business of the bank?

[fol. 197] A. I as one of them do not.

Q. Is it not true that if a depositor had money in your bank and withdraws it to buy a farm, that the bank would not consider that in competition with the bank's business.

A. I do not think so.

Q. If he withdraws it to buy bonds, would that be in competition with the bank's business?

A. I don't think so.

Q. If he withdraw it to buy any of the local high class securities held by banks, would that be in competition with your bank, if he withdrew his money on deposit to purchase high class securities held by the bank, and which the bank was willing to transfer to him, would, that be in competition with the bank's business?

A. I would not think so.

(Signed) L. L. Calvert.

[fol. 198] State of Kentucky,
County of Scott:

I, Ida Miller May, a Notary Public within and for the county and state aforesaid, do hereby certify that the foregoing depositions of George T. Hambrick, W. A. Hinton, W. G. Abbott, C. B. Roberts and L. L. Calvert and John C. Nichols were all taken before me at the time and place, and for the purpose as stated in the caption.

Each — witnesses were first duly sworn according to law before deposing.

Said depositions were taken down by me in short-hand in the presence of the witness, and thereafter by agreement of the parties transcribed by me on the typewriter, and I further certify that the foregoing is a true and correct copy of said depositions as taken down by me.

After being transcribed said depositions were read by me to each of said witnesses and subscribed and sworn to by them before me. There were present J. Craig Bradley, and V. A. Bradley, and James Bradley, as attorneys representing the plaintiff herein, and H. C. Ford representing the Commonwealth.

Given under my hand notorial seal, this 28th day of September, 1923.

(Signed) Ida Miller May, Notary Public Scott County, Kentucky. My commission expires on the 5th day of February, 1925. (Seal.)

[fol. 199] EXHIBIT IN EVIDENCE

The Exhibit referred to on page 60, order No. 13, and also filed as a part of — W. A. Hinton, Cashier of the Farmers Deposit Bank of Sadieville, Kentucky, is as follows:

Farmers Deposit Bank of Sadieville, Kentucky, June 30th, 1921

Capital Stock	$40,000.00
Surplus	40,000.00
Undivided Profits	8,055.26
Deposits	383,000.00

Officers

R. H. McCabe	President.
G. B. Johnson	Vice-President.
Wm. A. Hinton	Cashier.
Chas. P. Fields	Asst.-Cashier.
Miss Vera Hinton Moss Laura Lancaster	Individual Bookkeepers.

Statement of Farmers Deposit Bank of Sadieville, Sadieville, Kentucky

Resources

Loans and Discounts	$423,402.14
Banking House & Lot	4,000.00
Furniture & Fixtures	2,000.00
Due from Banks	33,259.88
Cash in Safe	7,518.07
Overdrafts	555.31
	$470,735.40

[fol. 200] Liabilities

Capital Stock	$40,000.00
Surplus	40,000.00
Undivided Profits	8,055.26
Due Depositors	382,680.14
	$470,735.40

Statement in Detail, Past 6 Months

Gross earnings	$16,443.75
Appropriated as follows:	
Regular Dividend of 6 per cent to Stockholders	$2,400.00
Current Expenses	3,849.79
Interest paid on time deposits	3,859.72
Taxes paid	1,304.86
Passed to Undivided Profits	5,029.38
	$16,443.75

We cordially invite your attention to the within Semi-Annual Statement. We solicit your future patronage and assure you of our willingness to render you the very best service possible in keeping with good sound banking.

Respectfully submitted, Wm. A. Hinton, Cashier.

Directors

[fol. 201]

R. H. McCabe.	A. D. Stevens.	A. Lancaster.
L. Mulberry.	C. T. Smith.	G. B. Johnson.
E. S. Zeying.	T. F. Sheritt.	Dr. J. M. Henry.
L. Risk.	Wm. A. Hinton.	

Exhibit in Evidence

The Exhibit referred to on page 60, No. 13, and also filed as a part of — C. B. Roberts, Cashier of the Citizens Bank of Stamping Ground, is as follows:

Statement of the Citizens Bank, Stamping Ground, Ky., of June 30th, 1921

Resources

Mortgage Loans	$102,759.86
Loaned on Stocks and Bonds	850.00
Other notes and Bills	.....
Personal Security	96,246.99
Liberty Bonds	2,376.00
Due from National Banks	15,077.44
Due from State Banks	6,073.53
Actual Cash on hand	4,518.48
Overdrafts unsecured	502.27
Expenses and Taxes paid	140.10
Real Estate—Banking House	5,500.00
Furniture & Fixtures	700.00
Fire Insurance Premium on Banking-House	107.15
	$234,852.52

[fol. 202]

Liabilities

Capital Stock	$20,200.00
Surplus Fund	18,700.00
Undivided Profits	1,780.48
Deposits subject to check	101,752.76
Time Deposits	61,498.97
Due Banks & Trust Companies	923.16
Due National Banks	4,810.64
Bills payable	25,000.00
Rent from safety boxes	186.51
	$234,852.52

The Citizens Bank, by C. B. Roberts, Cashier.